

**A GUIDE TO COPYRIGHT REFORM
IN CANADA**

**A Cross-Reference of Proposed Revisions
to the Canadian Copyright Act
1977 to 1987**

2nd Edition



**Harry Hillman Chartrand
Head, Research & Evaluation
Canada Council
July 1987**

A GUIDE TO COPYRIGHT REFORM IN CANADA

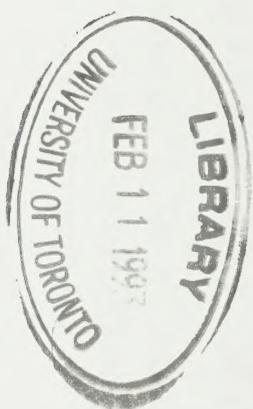
A Cross-Reference of Proposed Revisions
to the Canadian Copyright Act

1977 to 1987

2nd Edition



Harry Hillman Chartrand
Head, Research & Evaluation
Canada Council
July 1987



The second edition of *A Guide to Copyright Reform in Canada* is intended as a research aid for individuals and organizations concerned with the reform and revision of the *Copyright Act*. The Act provides, at one and the same time, the legal foundation for the industrial organization of the arts and the basis for rewarding the creative effort of artists in an increasingly interactive technologic world.

In light of a decade long process of reform, it was decided that the most effective way to understand the complex and changing nature of proposed revisions was to place proposed changes in the context of the existing Act. Readers are advised to consult source documents for a more complete understanding and appreciation.

The guide has been developed from six source documents:

1. The Copyright Act, R.S., c. 55 including amendments to the Act passed in 1972, 1975, 1977, 1981 and 1982.
2. Copyright in Canada: Proposals for a Revision of the Law by A.A. Keyes and C. Brunet, published by Consumer and Corporate Affairs Canada in April 1977.
3. From Gutenberg to Telidon - A White Paper on Copyright: Proposals for the Revision of the Canadian Copyright Act by the Honourable Judy Erola and the Honourable Francis Fox, published by Consumer and Corporate Affairs Canada and the Department of Communications, 1984.
4. A Charter of Rights for Creators by the Sub-Committee on the Revision of Copyright of the Standing Committee on Communications and Culture of the House of Commons, published by the Minister of Supply and Services, October 1985.
5. Government Response to the Report of the Sub-Committee on the Revision of Copyright by the Honourable Michel Côté and the Honourable Marcel Masse, published by Consumer and Corporate Affairs Canada and the Department of Communications, February 1986.
6. Bill C-60, An Act to amend the Copyright Act and to amend other Acts in consequence thereof, Minister of Communications, Second Session, Thirty-third Parliament 35-36 Elizabeth II, 1986-87, First Reading, May 27, 1987.

The Guide consists of four parts. The first is an index to proposed changes to the sections and sub-sections of the existing *Copyright Act*. This index serves as the table of contents for the Guide. Proposed changes to the existing Act are displayed in *italics*. Due to the introduction of Bill C-60 several new sections to the existing Act have been proposed. In order to assist readers the index lists these new sections as if they were part of the existing Act. These additional sections are noted in a distinct type face: **Classic Bold**, Classic Regular and *Classic Italic*.

The second part classifies revisions proposed in 1977, 1984, 1985, 1986 and 1987 to the sections and sub-sections of the existing Act. Headings for proposed revisions are shown in *italics in the margin*. In general, proposed changes are listed in alphabetical order by section of the Act. All proposals have been extracted from source documents and are referenced by page number. Within this part of the Guide, entirely new sections proposed in Bill C-60 are separated from the existing Act by a dark line.


The third part of the Guide consists of revisions proposed in Bill C-60 to related legislation. Bill C-60 proposes changes to the *Competition Act*, the *Industrial Design Act*, the *Access to Information Act*, and the *Privacy Act*.

The fourth part of the Guide is the existing Act and amendments passed by the House of Commons in 1972, 1975, 1977, 1981 and 1982. The Act and relevant amendments form Appendix B to this Guide.

In spite of its inherent limitations, it is hoped that the Guide will assist those individuals and organizations concerned with the critical issue of copyright reform in Canada. Errors and omissions are the responsibility of the author. Questions and comments concerning the guide should be addressed to:

Harry Hillman Chartrand
Research Director
Research & Evaluation
Canada Council

99 Metcalfe Street
Ottawa, Ontario
Post Office Box 1047
K1P 5V8
(613) 598-4341



Digitized by the Internet Archive
in 2021 with funding from
University of Toronto

<https://archive.org/details/31761114653827>

Table of Contents

	Page		Page
Introduction	i	2. (cont'd)	
Table of Contents	ii	"publication"	6
SHORT TITLE & INTERPRETATION		"qualified persons"	6
SHORT TITLE		"retransmission"	6
1. Short Title	1	"transmission"	6
	2	"work"	6
	2	"work of joint authorship"	7
		"work of sculpture"	7
INTERPRETATION			
2. Definitions	2	COPYRIGHT	8
"architectural work of art"	2	3.(1) Copyright	9
"artistic work"	2	General	9
"audio-visual works"	2	Right to Adapt	9
"Board"	2	Right to Authorize	9
"book"	2	Right to Broadcast	9
"broadcast"	2	Right to Perform in Public	10
"Canadian sound recording"	2	Right to Publish	10
"choreographic works"	3	Right to Reproduce	10
"cinematograph"	3	Computer Input Rights	10
"collective work"	3	Computer Program Rights	10
"computer program"	3	Display Rights	11
"computer program in machine-readable form"	4	Domaine Public Payant	11
"delivery"	4	Droit de Suite	11
"dramatic work"	4	Exhibition Rights	11
"engraving"	4	Film Rights	11
"every literary, dramatic, musical and artistic work"	4	Home Copying Rights	12
"fair dealing"	4	Moral Rights	12
"fixation"	4	Neighbouring Rights	12
"Her Majesty's Realms and Territories"	4	Performance Rights	12
"infringing"	4	Phonogram Convention	12
"lecture"	4	Public Lending Rights	13
"legal representatives"	4	Public Renting Rights	13
"literary work"	5	Recording Rights	13
"local signal"	5	Reprography Rights	13
"Minister"	5	Retransmission Rights	13
"moral rights"	5	Vienna Agreement	14
"musical work"	5	Publication	14
"performance"	5	General	14
"performance in public"	5	Computer Programs in Machine-Readable Form	14
"photograph"	6	Film	14
"plate"	6		
		3.(2)	

(cont'd)

Table of Contents

(cont'd)

	Page		Page
12.(4)	34	Computer Programs in Machine-Readable Form	42
	34	Discovery	42
	34	Recordings	43
	34	Reprography	43
12.(5)	34	Acts not constituting infringement of copyright	43
	34	Access to Information	43
	34	Agricultural Fairs	43
12.(6)	34	Art in Public Places	43
12.(7)	34	Computer Programs	43
		Cultural Property Export and Import Act	45
	34	Educational Use	45
	35	Fair Dealing	45
	35	Freedom of Speech and the Press	45
	35	Matrices of Artistic Work	46
	36	Public Reading	46
	36	Further exemptions	46
	36	Archival Purposes	46
		Computer Information, Storage and Retrieval Systems	46
	36	Educational Broadcasting	46
	36	Educational Performances	47
	36	Ephemeral Recording	47
	36	Handicapped	47
	36	Incidental Use	47
		Legislative, Judicial and Administrative Proceedings	48
		Libraries	48
	38	Performance of Musical Works for Charitable Purposes	48
	39	Reconstruction of Buildings	48
	39	Three-Dimensional Objects from Two-Dimensional Works	48
	39	Infringement by personal action	48
	39	Public performance for private profit without owner's consent	49
	39	Access to Information	49
	39	Report in newspaper of political speech no infringement	49
	39		
		MORAL RIGHTS INFRINGEMENT (proposed in C-60)	49
	41	18.1 Infringement generally	49
	42	18.2 (1) Nature of right of integrity	49
	42	18.2 (2) Where prejudice deemed	50
		18.2 (3) When work not distorted, etc.	50

Table of Contents
(cont'd)

19.(1)	Making in Canada of records etc., no infringement	Page 50
	Film Sound Tracks	50
	Recordings	50
19.(2)	When alterations necessary for adaptation to contrivance	51
19.(3)	Contrivance not included	51
19.(4)	Manuscript arrangements	51
19.(5)	Rates of royalties	52
19.(6)	Apportionment of royalties when several owners	52
19.(7)	When owner deemed to consent to making contrivances	52
19.(8)	Regulations and notices by Governor in Council	52
19.(9)	Provisions as to musical works heretofore published	52
19.(10)	Copyright deemed to exist at date of making original plate	52
CIVIL REMEDIES		
20.(1)	Civil remedies	53
	General	54
	Declaratory Judgement	54
	Discovery	54
	Injunctions	54
	Moral Rights	54
	Recordings	55
20.(2)	Costs	55
20.(3)	Presumptions as to copyright and ownership	55
20.(4)	Assessment of damages	56
	Computer Programs in Machine-Readable Form	56
	Direct Infringement	56
	Exemplary Damages	56
	Indirect Infringement	56
	Moral Rights	57
20.(5)	Protection of separate rights	57
20.(6)	Concurrent jurisdiction of Exchequer Court	57
21.	Ownership of copies, plates, etc.	57
22.	Injunction only remedy when defendant not aware of copyright	58
23.(1)	No injunction in case of a building	58
23.(2)	Penalties not to apply	58
24.	Prescription of action	58
SUMMARY REMEDIES & IMPORTATION OF COPIES		
SUMMARY REMEDIES		
25.(1)	Offences	59
	General	60
	Computer Programs in Machine-Readable Form	60
	Performances	60
25.(2)	Possession of plates for infringement	61
25.(3)	Power of court to deal with copies or plates	61
26.(1)	Infringement in case of dramatic operatic, or musical work	61
26.(2)	Change or suppression of title or author's name	61
IMPORTATION OF COPIES		
27.	Importation of certain copyright works prohibited	61
28.(1)	No importation where right or licence to reproduce in Canada granted	62
28.(2)	Notice required of intention to import	62
28.(3)	Exceptions	62
28.(4)	Application of provisions regarding importation	62
ADMINISTRATION, REGISTRATION, FEES, CLERICAL ERRORS NOT TO INVALIDATE, RULES AND REGULATIONS, GENERAL & CONVENTION OF BERNE		
ADMINISTRATION		
	29, 30, 31, 32, 33, 34, 35, 36	64
REGISTRATION		
	37, 38, 39, 40	64
FEES		
	41, 42	64
CLERICAL ERRORS NOT TO INVALIDATE		
	43	64
RULES AND REGULATIONS		
	44	64
GENERAL		
	45. No copyright unless under this Act	65

Table of Contents

46.(1)	Application of Act to designs	Page	
46.(2)	Rules for determining use of design	65	
Section 46 of the Act is repealed and the following proposed C-60 section is substituted therefor:			
46.(1)	Interpretation "article" "design" "useful article" "utilitarian function"	65	
46.(2)	Non-infringement re certain designs	65	
46.(3)	Exceptions	65	
46.1	Non-infringement re useful article features	66	
CONVENTION OF BERNE			
47.	Adherence to Convention of Berne	67	
PERFORMING RIGHTS SOCIETIES & CONVENTION OF ROME			
PERFORMING RIGHTS SOCIETIES			
48.(1)	Performing rights	68	
48.(2)	Tariff of fees, charges or royalties to be filed annually	69	
48.(3)	Enforcement of remedies where non-compliance	69	
Section 48 of the Act is repealed and the following proposed C-60 section is substituted therefor:			
COPYRIGHT BOARD			
48.(1)	Establishment	69	
48.(2)	Service	69	
48.(3)	Chairman	70	
48.(4)	Tenure	70	
48.(5)	Reappointment	70	
48.(6)	Prohibition	70	
48.(7)	Deemed public service employees	70	
48.1(1)	Duties of the chairman	70	
48.1(2)	Absence or incapacity of chairman	70	
48.1(3)	Duties of the vice-chairman	70	
48.2(1)	Remuneration and expenses	70	
48.2(2)	Expenses of chairman	71	
48.3(1)	Conflict of interest prohibited	71	
48.3(2)	Termination of conflict of interest		71
48.4(1)	Staff		71
48.4(2)	Idem		71
48.4(3)	Technical assistance		71
48.5(1)	Extension		71
48.5(2)	Decisions		71
48.6(1)	Regulations		71
48.6(2)	Publication of proposed regulations		72
48.6(3)	Exception		72
48.7(1)	General powers, etc.		72
48.7(2)	Enforcement of decisions		72
48.7(3)	Procedure		72
48.8	Studies		73
48.9(1)	Report		73
48.9(2)	Tabling		73
49.(1)	Statements to be published		73
49.(2)	Statements to be referred to the Board		73
Section 49 of the Act is repealed and the following proposed C-60 section is substituted therefor:			
COLLECTIVE ADMINISTRATION OF PERFORMING RIGHTS			
49.(1)	Performing rights		73
49.(2)	Filing of statements of royalties		73
49.(3)	Effective period of statements		74
48.(4)	Prohibition of enforcement		74
49.1(1)	Publication of statements		74
49.1(2)	Board to consider statements and objections		74
49.2(1)	Certification with alterations		74
49.2(2)	Effect of fixing royalties		75
49.2(3)	Right of action barred if royalties tendered or paid		75
50.(1)	Board constituted		75
50.(2)	Chairman and members		75
50.(3)	Travelling and living expenses		76
50.(4)	Rules and provisions		76
50.(5)	Aid in advisory capacity		76
50.(6)	Board to consider statements and objections		76
50.(7)	Radio performances in places other than theatres		76
50.(8)	Board may make alterations		77

	Page	Owners Who Cannot Be Located	Page
50.(9) Fees, charges and royalties which may be collected	77	50.8(1) <i>Circumstances in which licence may be issued</i>	81
General	77	50.8(2) <i>Conditions of licence</i>	81
Recordings	77	50.8(3) <i>Payment to owner</i>	81
Retransmission	77		
50.(10) Right of action barred if approved fees, charges or royalties have been tendered or paid	78	CONVENTION OF ROME	
		51. Adherence to Rome Copyright Convention	82
Section 50 of the Act is repealed and the following proposed C-60 section is substituted therefor:	78		
COLLECTIVE ADMINISTRATION OF COPYRIGHT			
50.1 Definition of licensing body	78		
50.2(1) Application to fix amount of royalty	79		
50.2(2) Fixing royalties	79		
50.3(1) Agreement	79		
50.3(2) Idem	79		
50.4 Effect of Board decision	79		
50.5(1) Continuation of rights	80		
50.5(2) Effect of new agreement	80		
50.5(3) Effect of new Board decision	80		
Examination of Agreements		APPENDIX A: RELATED AND CONSEQUENTIAL AMENDMENTS BY ACT	83
50.6(1) Definition of "Director"	80	Competition Act R.S., c. C-23; 1986, c.26 s.19	84
50.6(2) Filing agreement with the Board	80	Industrial Design Act R.S., c.1-8	84
50.6(3) Idem	80	Access to Information Act 1980-81-82-83, c.111, Sch. 1	84
50.6(4) Access by Director	81	Privacy Act 1980-81-82-83, c. 111, Sch. 11	84
50.6(5) Request for examination	81		
50.7(1) Examination and fixing of royalty	81	APPENDIX B: <u>The Copyright Act, R.S., c-55</u>	85
50.7(2) Idem	81		

SHORT TITLE & INTERPRETATION

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
SHORT TITLE 1 Short Title	...	...	...	...	...
INTERPRETATION 2 Definitions	...	...	...	...	...
"architectural work of art"	...	...	...	...	The definition "architectural work of art" ... in section 2 of the <i>Copyright Act</i> (is) repealed and the following substituted therefor: "architectural work of art" means any building or any model of a building (1(1), p.1);
"artistic work"	...	...	Maps, charts and plans should be treated as artistic works (21, p.17). Consideration should be given to a new designation of "artistic works" in general and to "engravings" in particular (29, p.24).	The government accepts these recommendations (21, 29, p.4, p.6).	The definition "artistic work" in section 2 of the <i>Copyright Act</i> (is) repealed and the following substituted therefor: "artistic work" includes paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship and architectural works of art (1(1), p.1);
"audio-visual works"	...	...	Audio-visual works should be defined to include any work in which an image appears to be in motion, with or without sound, on any material support (46, p.37). Audio-visual works should be defined to include pre-programmed works where the movement of the picture may be the result of a player's interaction with a computer program (47, p.37).	The government agrees with these recommendations in principle. The suggested definitions will be considered when developing the Act (46, 47, p.8).	...
"book"	...	...	...	...	...
"Board"	...	...	...	...	Section 2 of the said Act is further amended by adding thereto ... the following definition: "Board" means the Copyright Board established under subsection 48(1)(3), p.2;
"broadcast"	The definition of radiocommunication be that used in the Broadcasting Act (p.53). That the term "broadcast" ... include an origination (diffusion) by a cable system (p.169).	...	...	...
"Canadian sound recording"	That a "Canadian sound recording" be defined as one where the majority of the elements required to produce the recording are Canadian (p.89).	...	...	...

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
2 (cont'd) "choreographic work"	Section 2 of the said Act is further amended by adding thereto ... the following definition: "choreographic work" includes any work of choreography, whether or not it has any story line (1(3), p. 2);
"cinematograph"	...	The term "cinematography" and "processes analogous to cinematography" will be defined broadly to include any means by which such works are produced, irrespective of the technological process utilized (e.g., video-tape and videodiscs)(p. 10).	...	...	...
"collective work"	...	The new Act will include a definition of collective work that sets out a general set of criteria, followed by an illustrative list of examples (p. 32). Revised definition of collective works will provide for copyright protection regardless of the class of underlying works (p. 33).	...	...	Section 2 of the said Act is further amended by adding thereto ... the following definition: "computer program" means a set of instructions that is expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer in order to bring about a specific result (1(3), p. 2);
"computer program"	...	Computer program will be defined in a manner such as "a set of operating instructions intended to operate a machine having information processing capabilities" (p. 81).	...	...	Transitional <i>Application re computer programs</i> (Amendment) Subsection 1(2), the definition "computer program" in (amendment) subsection 1(3) and (amendment) section 5 apply in respect of a computer program that was made prior to the day on which those provisions come into force but where, by virtue only of (amendment) subsections 1(2) and (3) and this section, copyright subsists in a computer program that was made prior to May 27, 1987, nothing done in respect of the computer program before May 27, 1987 shall be construed to constitute an infringement of the copyright (22, p. 20).

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
2. (cont'd) "computer program in machine-readable form"	...	"Computer program in machine-readable form" will be defined in a manner such as a computer program that is not intended for human comprehension but will include any instructions intended to make the program compatible with a particular machine or type of machine (p. 81).	...	...	...
"delivery"
"dramatic work"
"engraving"	Consideration should be given to a new designation of "artistic works" in general and to "engravings" in particular (29, p.24).	The government accepts these recommendations (29, p.6).	...
"every literary, dramatic musical and artistic work"
"fair dealing"	...	The new Act will ... provide both a definition of fair dealing (to be termed "fair use") and a prioritized list of factors to be considered in determining whether a particular use of a work is a fair use. "Fair Use" will be defined as a use that does not conflict with the normal exploitation of the work or subject matter and does not unreasonably prejudice the legitimate interests of the copyright owner (p. 39).	The present fair dealing provisions should not be replaced by the substantially wider "fair use" concept (82, p.65).	The government agrees with this recommendation in principle (82, p.13).	...
"fixation"	That the definition of fixation allow for any means capable of capturing the work fixed thereby (p.42).	The definition of fixation will include any means capable of capturing the work, whether written and notation formats or audio and video recording including the simultaneous recording of works transmitted by broadcast or direct cable transmission (p. 6).	Fixation should be defined as all means capable of capturing a work, including capture in computer media, but excluding capture in a medium as main as a computer's main storage or display screen (54, p.41).	Recommendation 54 will be considered when defining the concept of fixation (54, p.9).	...
"Her Majesty's Realms and Territories"
"infringing"	The definition of what constitutes copyright infringement should be reviewed (132, p.98).	The government agrees with this recommendation in principle (132, p.18).	...
"lecture"
"legal representatives"

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
2 (cont'd) "literary work"	---	---	---	---	The definition "literary work" in section 2 of the said Act is repealed and the following substituted therefor: "literary work" includes tables, compilations and computer programs (1 (2), p. 1);
"local signal"	---	---	Local signals should be defined as those reaching the broadcaster's target market by whatever means (106, p.82).	As for the scope, implementation and operation of the (<i>copyright payment</i>) system, when new legislation is in place, the government intends to proceed as follows: 1. Local signals, which remain to be defined, will be excluded from the new system (106, p.15).	...
"Minister"	---	---	---	---	...
"moral rights"	---	---	---	---	Section 2 of the said Act is further amended by adding thereto ... the following definition: "moral rights" means the rights described in subsection 12.1(1)(1(2), p. 2);
"musical work"	That "musical works" be defined as including words intended by the authors) to be performed with the music. (p. 94).	---	The category of musical work should be defined in an illustrative manner (38, p.31).	The government agrees with this recommendation in principle. Recommendation 38 will be considered when defining the concept of fixation of a work (38, p.7).	...
"performance"	---	"Performance" will be redefined to reflect technological developments (and) will include public delivery of lectures, and similar works, the public presentation of a work that is broadcast, the playing in public of a record and the public exhibition of a film. Public performance rights will not be granted to sound recordings (p. 19).	---	---	...
"performance in public"	---	---	"Performance in public" should be defined to include those performances effected by means of a video jukebox even where such performances can be viewed only by one person at any given time (49, p.38). The new Act should define the phrase "in public" as regards the right to perform in public so as to include situations where individuals share living quarters by reason of their work, education, vacation or detention (48, p.37).	The government agrees with this recommendation in principle. The suggested definition will be considered when developing the Act (48, 49, p.8).	...

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
2 (cont'd) "photograph"
"plate"
"publication"	...	<p>The current concept of publication (requiring the issuance of copies to the public) will be retained and the right to publish will continue to be granted to copyright owners (p.19).</p> <p>The Copyright Act will protect the works of the following "qualified persons".</p> <p>Individuals:</p> <ul style="list-style-type: none">- Canadian nationals- those domiciled or resident in Canada- non-nationals whose works require protection under the conventions to which Canada adheres- nationals of those countries to which the Copyright Act may be extended from time to time" <p>Juridical persons:</p> <ul style="list-style-type: none">- bodies incorporated in Canada- bodies incorporated in countries signatory to the conventions to which Canada adheres- bodies incorporated in countries to which the Act may extend from time to time- organizations to be named from time to time by Order in Council (e.g., the United Nations) (pp. 6-7).	<p>The new Act, in defining "publication", should take into account the various methods of making a work available to the public other than by issuance of copies of that work (50, p.39).</p> <p>The government agrees with this recommendation in principle. The suggested definition will be considered when developing the Act (50, p.8).</p>	...	
"qualified persons"	<p>That the protection of the Canadian Act be provided to the following "qualified persons":</p> <p>Individuals</p> <ul style="list-style-type: none">a) Canadian nationals;b) those domiciled or resident in Canada;c) non-nationals whose works require protection under the Conventions to which Canada adheres;d) nationals of those countries to which the Act may from time to time extend. <p>Juridical persons</p> <ul style="list-style-type: none">a) bodies incorporated in Canada;b) bodies incorporated in countries signatories to the Conventions to which Canada adheres;c) bodies incorporated in countries to which the Act may from time to time extend;d) organizations (e.g., UN and specialized agencies) to be named in appropriate orders from time to time (p. 45).	...	<p>The right of retransmission should be defined in general terms and should not depend on current technology (100, p.80).</p> <p>The government should examine the desirability of bringing all broadcasting and retransmission activities under an expanded definition of a transmission right (99, p.80).</p>	<p>The government agrees with the principles outlined in recommendation ...100 (100, p.15).</p> <p><i>The government made no formal response to recommendation 99 (99, p.15).</i></p>	...
"retransmission"
"transmission"
"work"

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
2 (cont'd) "work of joint authorship"	---	<p>Two guiding criteria to be used in defining a work of joint authorship: first, the intentions of the parties involved, and second, the inter-dependency or inseparability of the parts (p. 31).</p> <p>To qualify as a work of joint authorship, it should have been the intention of the authors, at the time of creation, that their contribution be merged into inseparable or interdependent parts of a unitary whole... Where there are clearly identifiable and separable works within a joint work, such as with lyrics and music, the creator of each underlying work will have the right to use that work without the permission of the other creator (p. 32).</p>	---	---	---
"work of sculpture"	---	---	---	---	---

COPYRIGHT

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
COPYRIGHT 3 (1) Copyright General	<p>... ... That the legal basis of copyright remain that of property (p. 236). That the pecuniary rights of authors in respect of their literary, dramatic, musical and artistic work be reformulated as explicit rights... That references to the rights attaching to subject matter other than literary, dramatic, musical and artistic works such as motion picture films, sound recordings be deleted. That to ensure clarity and certainty, the exclusive rights of authors in literary, dramatic, musical and artistic works be formulated so as to provide that in respect of:</p> <p>(that) it include the right to make a version in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, newspaper magazine or similar periodical;</p> <p>that it mean the right to authorize the exercising of any of the rights reserved to authors;</p>	<p>... ... The rights provided under the present Act will be regrouped into six broad rights: to reproduce, to perform in public; to publish; to adapt; to broadcast; and, to authorize such activities (p. 17).</p>	<p>... ... The Copyright Act should be expanded to include new property rights which reflect modern forms of creative activity and the various ways of communicating the fruits of that activity (1, p.6).</p>	<p>... ... The government is strongly in favour of this objective of modernizing the existing Act and keeping it up to date in the future (1, p.2).</p>	<p>...</p>
<i>Right to Adapt</i>	<p>(that) it include the right to make a version in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, newspaper magazine or similar periodical;</p>	<p>Under the present Act, the right to adapt is explicitly given only to traditional works being adapted to cinematography. However, the same principle applies to the right to convert a dramatic work into a non-dramatic work or vice-versa, and the right to "produce, reproduce, perform, or publish any translation of the work". The right to adapt will be defined to encompass all the above (p. 19).</p> <p>Presently, it is an infringement to improperly authorize the exercise of any of a copyright owners' exclusive rights. This right will be retained (p. 19).</p>			<p>... ... The government agrees with this recommendation in principle.</p> <p>However, recommendation 5 will not extend to works for which a blanket licence has been granted by a collective society of copyright owners so as not to oblige users to obtain a second authorization for works that such societies have been assigned to administer (5, p.2).</p>
<i>Right to Authorize</i>	<p>that it mean the right to authorize the exercising of any of the rights reserved to authors;</p>	<p>These communications methods fall into two broad categories: transmission and retransmission.</p> <p>Transmission refers to a communication of a work from one place to a number of persons.</p> <p>Retransmission refers to re-transmitting the same signal by a different means.</p>	<p>The new Act should provide a moral right to authorize the use of any protected work in association with products, services, causes or institutions. (5, p.8)</p>	<p>The government agrees with these recommendations in principle. (76, 77, p.12)</p> <p>However, recommendation 5 will not extend to works for which a blanket licence has been granted by a collective society of copyright owners so as not to oblige users to obtain a second authorization for works that such societies have been assigned to administer (5, p.2).</p>	<p>... ... The government agrees with these recommendations in principle. (76, 77, p.12)</p> <p>The conditions and mechanism for extending the rights granted under the Act to foreign broadcasters, as suggested in recommendation 77, will be defined in the new Act (77, p.12).</p>
<i>Right to Broadcast</i>	<p>(that) the definition of radiocommunication be that used in the Broadcasting Act (p. 53). That the term "broadcast" ... include an origination (diffusion) by a cable system (p.169);</p>		<p>The rights attaching to broadcasts should be:</p> <ul style="list-style-type: none"> (a) a right of reproduction; (b) a right of transmission; (c) a right to authorize each of the above; and (d) a right of retransmission (76, p.58). <p>The rights should be provided to foreign broadcasters on the basis of reciprocity (77, p.59).</p>		

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
3 (1) (cont'd)		<p>Terrestrial broadcasting, cable origination, and primary transmission from satellites fall into the first category. Copyright owners will be provided with the necessary rights to control and exploit all such transmission activities. However, ... sound recordings will not be granted a broadcast right (p. 19).</p> <p>The meaning of the phrase ... "in public" is considered a question of fact. <i>(It)</i> will not be defined in the new Act. However, the word "performance" will be redefined to reflect technological developments <i>(and)</i> will include public delivery of lectures, and similar works, the public presentation of a work that is broadcast, the playing in public of a record and the public exhibition of a film. Public performance rights will not be granted to sound recordings (p. 18).</p>			
<i>Right to Perform in Public</i>	<p><i>(that)</i> it include delivery in the case of lectures and similar works; and the presentation of a work by the operation of wireless telegraph apparatus, exhibition of a film, playing of a record or by any other means (p.53);</p>	<p>Since the distinction between published and unpublished works is to be reduced, the definition of publication becomes less important. The current concept of publication (requiring the issuance of copies to the public) will be retained and the right to publish will continue to be granted to copyright owners (p. 19).</p>	<p>The new Act should define the phrase "in public" as regards the right to perform in public so as to include situations where individuals share living quarters by reason of their work, education, vacation or detention (48, p.37). "Performance in public" should be defined to include those performances effected by means of a video jukebox even where such performances can be viewed only by one person at any given time (49, p.38).</p>	<p>The government agrees with these recommendations in principle. The suggested definitions will be considered when developing the Act (48, 49, p.8).</p>	...
<i>Right to Publish</i>	<p><i>(that)</i> it include making copies of any ... work available to the public (p.53);</p>	<p>"The right to reproduce" means the right to copy a work or any substantial part of it in any material form including a recording or film. The new definition of the right will retain the words "any substantive part". What constitutes "any substantive part" is a question of fact to be determined by the courts (p. 18).</p>	<p>The new Act, in defining "publication", should take into account the various methods of making a work available to the public other than by issuance of copies of that work (50, p.39).</p>	<p>The government agrees with this recommendation in principle. The suggested definition will be considered when developing the Act (50, p.8).</p>	...
<i>Right to Reproduce</i>	<p><i>(that)</i> it include reproduction of a two dimensional work in three dimensions, or vice versa (p.53).</p>	<p>Authorization to make reproductions or other protected uses of the copyright material will be required at the input stage (p.11).</p>	<p>With respect to the right of reproduction, a material form should be one that has a certain degree of permanence (55, 42).</p>	<p>The government agrees with this recommendation in principle (55, p.9).</p>	...
<i>Computer Input Rights</i>	...		<p>A new right to input any protected work into a computer should be provided in the revised law (52, p.41).</p>	<p>The government agrees with this recommendation in principle (52, p.9).</p>	...
<i>Computer Program Rights</i>	<p>That computer programs <i>per se</i> not be protected by copyright. That where they fall under existing categories of protected material, computer programs embodied in that material be accorded the protection attached to those categories (p. 111).</p>	<p>One of the rights attaching to computer programs in human-readable form will be the right to authorize a computer program in machine-readable form based upon it... Computer program copyright means the right:</p>	---		---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
3 (1) (cont'd)		<p>a) to publish the machine-readable program if it is unpublished;</p> <p>b) to make another machine-readable program that is based upon and identical or substantially similar to the protected machine-readable program;</p> <p>c) to make a human-readable program that is based upon and identical or substantially similar to the machine-readable program.</p> <p>Computer program copyright does not include: a moral right (section 12(7) of the current Act); a public performance right; a broadcast or cable transmission right; a right of market segregation (import restrictions); a rental right; a right to use the program. (There is no right to use under traditional copyright) (p. 82).</p>			
<i>Display Rights</i>	---	---	There should be no right of display (on a computer screen) in the revised law (53, p.41).	The issue of the right of display mentioned in recommendation 53 will be studied in further detail (53, p.9).	---
<i>Domaine Public Payant</i>	That no provision be made for domaine public payant in any new Copyright Act (p. 125).	---	---	---	---
<i>Droit de Suite</i>	That a <u>droit de suite</u> not be provided in any new Copyright Act. (p. 124).	<p>The government is of the opinion that the difficulties inherent in the effective exercise of such a right would outweigh the benefits which would accrue to visual artists. Nevertheless, the government would welcome further debate and public comment on the principle and the details of exercising such a right (p. 22).</p>	Droit de suite should not be introduced at this time in the new Act. Ongoing study should be undertaken to evaluate fully the implications of the right (35, p.29).	The government agrees in principle with this recommendation (35, p.6).	---
<i>Exhibition Rights</i>	That any new Act provide for a specific right to exhibit an artistic work in public (p. 53).	Payment for exhibition of artistic works will continue to be governed strictly by private contract and will not be required by the Copyright Act (p. 23)	The revised law should recognize a right to exhibit the original of an artistic work in public. This right should also extend to artistic works which are part of a limited edition (34, p.28).	The government agrees in principle with this recommendation (34, p.6).	Subsection 3(1) of the said Act is amended by adding thereto, immediately after paragraph (f) thereof, the following paragraph: (g) to present at a public exhibition, for a purpose other than sale or hire, an artistic work created after the coming into force of this paragraph (2, p. 2);
<i>Film Rights</i>	That motion picture films be protected as specific works, whether or not they are of "original character". That the only rights of makers be:	---	---	---	---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
3 (1) (cont'd)	a) reproduction, including reproduction of any substantial part; b) performance in public; c) broadcasting; d) adaptation (p. 81-82).	...	Home copying should be permitted under the revised law subject to the payment of compensation in the form of a royalty on the material support and on the machine used to reproduce the work (93, p.76). The mechanism for establishing the amount of royalties should be the filing of tariffs for approval by the Copyright Appeal Board (94, p.77). Payment should be made by the manufacturers or importers directly to the collectives (95, p.95). Where works are protected on a reciprocal basis, the owners of copyright in those works should participate in the compensation system on a reciprocal basis (96, p.77).	The government recognizes the merit of the Sub-Committee's objective to compensate creators but will have to examine the best way to implement it (93, 94, 95, 96, p.14).	...
Home Copying Rights	...	...	The revised law should recognize moral rights as an integral part of copyright (2, p.8).	The government agrees in principle with this recommendation (2, p.2).	...
Moral Rights	...	...	The protection of performers' performances should be extended to nationals of those foreign countries which provide similar protection to Canadians (72, p.56).	The rights to be granted to performers under the Act will be defined at a later date as will the conditions and mechanisms for extending these rights to nationals of foreign countries as suggested in recommendation 72 (72, p.11).	...
Neighbouring Rights	That Canada not accede to the Neighbouring Rights Convention in the absence of any evidence that it would be in Canada's interest to do so (p.229).	It has been decided that the unauthorized recording of performances for commercial gain or the use of such unauthorized recordings for that purpose will be made an offense. This will protect performers from those who seek to interfere with the legitimate business of providing public entertainment by will means of records and tapes. However, performers not be provided with copyright in their performances (p.12).			
Performance Rights	That, subject to resolving the difficulties of viable collective mechanisms, revenue sharing and multiple licensing, a right in performances by Canadian performers be provided in any new Copyright Act. That the exclusive rights granted to a performer be: a) to make a recording of a performance; b) to reproduce recordings of a performance; c) to broadcast and perform in public a performance (p.117).				
Phonogram Convention	That Canada accede to the Phonogram Convention (p.227).				

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	BILL C-60 May 27, 1987
3 (1) (cont'd) <i>Public Lending Rights</i>	That a PLR not be provided in a revised Copyright Act (p. 123).	If an exclusive right to lend were adopted Canada's international copyright treaty obligations would require payments to non-Canadian copyright holders... Canadian copyright owners would not receive royalties in other countries even if Canada instituted this right. To avoid these negative effects the copyright method of compensation will not be adopted (p. 21).	A mechanism should be developed to compensate authors for the public lending of their works by libraries. The scheme should be independent of copyright law (23, p.20).	The government agrees in principle with this recommendation.(23, p.5)	---
<i>Public Renting Rights</i>	---	The new Act will provide a renting right that is limited to the commercial renting of sound recordings, films, and videotapes. The Act will also contain certain provisions allowing the Governor in Council to extend this right to other types of works (p. 20).	A new renting right attaching to all categories of protected subject matter should be provided in the revised law (92, p.73).	The government recognizes the merit of the Sub-Committee's objective to compensate creators but will have to examine the best way to implement it (92, p.14).	---
<i>Recording Rights</i>	That, providing it can be satisfactorily demonstrated that mechanisms can be established to exercise the rights, Canadian sound recordings be further protected by an exclusive right to perform in public and an exclusive right to broadcast (p. 89).	The new Act's protection for sound recordings will not include a right to collect a royalty for the public performance or broadcasting of sound recordings (p. 21).	The revised law should provide the full regime of copyright protection to sound recordings. Public performance, transmission and retransmission rights should be extended only to nationals of those foreign countries which provide similar protection to Canadians (65, p.51).	The government agrees in principle with this recommendation. However, since these products are different from traditional creative works they will be included in the Act under a separate category although they will benefit from certain of the rights applicable to such works. These rights are known as neighbouring rights. Apart from the right of reproduction recognized for sound recording under the present Act, regardless of their national origin, the new Act will grant them public performance, transmission and retransmission rights. The conditions and mechanism for extending these new rights to sound recordings of foreign origin as suggested in recommendation 65 will, however, be defined in the Act (65, p.10).	---
<i>Reprography Rights</i>	---	...	A specific right of reprographic reproduction should not be introduced (24, p.21).	The government agrees in principle with this recommendation (24, p.5).	---
<i>Retransmission Rights</i>	That in respect of the operations of cable system the following cablecasting rights be provided in any new Copyright Act: 1. Diffusion (cable systems originate programmes): (a) that copyright owners be provided a specific right to authorize the diffusion of their material by cable systems;	Copyright owners will be provided with the necessary rights to control and exploit all transmission activities (p. 19). During the copyright revision process it became apparent that further consultation was required on whether compensation should be paid for the re-transmission of copyright material (p. 89).	A retransmission right should be provided in the revised law (97, p.78). The right of retransmission should be defined in general terms and should not depend on current technology (100, p.80). Where works are protected on a reciprocal basis, the owners of copyright	The government agrees with the principles outlined in recommendations 97 (and) 100 (97, 100, p.15).	---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
3 (1) (cont'd)	<p>(b) that cable systems be provided protection in programmes they originate, analogous to protection to be provided to Canadian broadcasters in their broadcasts.</p> <p>2. Rediffusion (where cable systems simultaneously rediffuse broadcasts): that Canadian broadcasters be granted a right to authorized simultaneous rediffusion of their Canadian broadcasts.</p> <p>3. Regulation of Rediffusion:</p> <p>a) that, as the granting of the foregoing right will entail determining a basis for and the payment of royalties, appropriate regulatory mechanisms be established.</p> <p>b) that the Copyright Tribunal fix the appropriate fees and establish the necessary safeguards to ensure the equitable assessment, collection and distribution of royalties to Canadians (pp. 143-144).</p> <p>That Canada not accede to the Agreement, pending decisions reached with respect to industrial design legislation (p. 229).</p> <p>It include making copies of any ... work available to the public (p. 53)</p>	<p>...</p> <p>Since the distinction between published and unpublished works is to be reduced, the definition of publication becomes less important. The current concept of publication (requiring the issuance of copies to the public) will be retained and the right to publish will continue to be granted to copyright owners (p. 19).</p> <p>"Publication" means selling, leasing, licensing, trading, or offering to sell, lease, or trade a machine-readable program (p. 83).</p>	<p>should benefit from a retransmission right on a reciprocal basis (98, p. 78). The government should examine the desirability of bringing all broadcasting and retransmission activities under an expanded definition of a transmission right (99, p. 80).</p> <p>...</p> <p>The new Act, in defining "publication", should take into account the various methods of making a work available to the public other than by issuance of copies of that work (50, p. 39).</p>	<p>No formal government response to recommendations 98 and 99 (98, 99, p. 15).</p> <p>...</p> <p>The government agrees with this recommendation in principle. The suggested definition will be considered when developing the Act (50, p. 8).</p> <p>...</p> <p>...</p>	
Vienna Agreement					
3 (2) Publication General					
Computer Programs in Machine-Readable Form					
Film	<p>That publication, with respect to films, be defined to provide for all manners in which films are in practice made available: by lease, rental, sale or licence (p. 82).</p>				
3 (3) When work deemed to be published, performed or delivered in public					

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
3 (4) <i>When work deemed to be first published</i>	That simultaneous publication be defined as a subsequent publication occurring within 30 days of first publication (p. 46).	---	---	---	---
3 (5) <i>Unpublished works</i>	That the devising of the original of any unpublished material, protected by copyright, presumes devising of the copyright therein, unless a contrary intention is evidenced in the will (p. 73).	---	---	---	---
3 (6) <i>When author deemed to be resident</i>	---	---	---	---	---

WORKS IN WHICH COPYRIGHT MAY SUBSIST

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
WORKS IN WHICH COPY- RIGHT MAY SUBSIST 4 (1) Conditions for obtain- ing copyright <i>General</i>	<p>... ...</p> <p>That the general categorization of literary, dramatic, musical and artistic works, be retained. That the categories be broadly defined, bearing the following in mind:</p> <ul style="list-style-type: none"> a) "literary works" should not include maps, charts or plans; b) "musical works" should recognize the contemporary nature of these works, and any definition should encompass words associated with the music; c) "dramatic works" should not include motion picture film or videotape, but should include choreography; d) "artistic works" should be protected irrespective of artistic quality; to include maps, charts and plans; that the definition of photograph include any work expressed by a process analogous to photography (p. 48). 	<p>... ...</p> <p>To ensure that the revised Copyright Act includes new creations as well as new forms of expression of existing works, the Act will apply to original works defined in accordance with a generic phrase and classified into specific categories of works. Every work coming within the Copyright Act will be entitled to protection, regardless of the mode or form of its expression and of the means by which it may be reproduced, perceived or communicated. As there is no overriding case to be made for changing these general categories, the four main classes will be retained, but sound recordings and cinematographic works will be treated as separate categories. In addition, the new Act will be drafted in such a way as to ensure that choreography does not require a story line to be protected (pp. 9-10).</p>	<p>... ...</p> <p>The Copyright Act should be expanded to include new property rights which reflect modern forms of creative activity and the various ways of communicating the fruits of that activity (1, p.6).</p>	<p>... ...</p> <p>The government agrees in principle with this recommendation (1, p.2).</p>	...
<i>Audio-Visual Works</i>	...	...	<p>The new Act should provide for a distinct category of protected subject matter to be called "audio-visual works" (45, p.36).</p>	<p>The government agrees in principle with this recommendation (45, p.8).</p>	...
<i>Broadcasts</i>	<p>That copyright protection be provided to Canadian broadcasts with the following exclusive rights attaching to the originating broadcasting organization:</p> <ul style="list-style-type: none"> a) the right to record the sounds and/or images broadcast; b) the right to use such a recording for <ul style="list-style-type: none"> (i) broadcasting or diffusing (ii) causing the broadcast to be heard or seen in public; c) the right to rebroadcast the broadcast (p. 107). 	<p>The provision of a right in broadcasts could add an unnecessary layer of proprietary rights to already protected material. Such an extension could complicate the exploitation of material and add to negotiating costs of both owners and users. Although broadcasts are protected in a few other countries, the copyright conventions do not require Canada to provide this protection. For these reasons the new Act will not protect broadcasts (p. 12).</p>	<p>Broadcasts should be protected under the revised Act (75, p.58).</p>	<p>Broadcasts ... will be assigned to a separate category together with sound recordings and performers' performances (75, p.12).</p>	...
<i>Choreography, Performance and Pantomime</i>	...	...	<p>"Works of choreography", "works of performance" and "pantomimes" should be placed in a separate category of protected subject matter. Such works should not need to develop a dramatic plot or sequence in order to be protected (31, p.26).</p>	<p>The government accepts this recommendation (31, p.6).</p>	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4 (1) (cont'd) <i>Computer Information Storage and Retrieval Systems</i>	...	Copyright material will be protected regardless of the medium of expression. Hard copies such as magnetic tapes and discs will be considered copies, thus making unauthorized reproduction in these formats an infringement. Displays in video units, however, will not be considered copies. Works originally created and fixed in a computer will qualify for copyright protection irrespective of whether they exist or are fixed in another medium. Authorization to make reproductions or other protected uses of the copyright material will be required at the input stage (p. 11).	...	...	...
<i>Computer Programs</i>	That computer programs <i>per se</i> not be protected by copyright. That, where they fall under existing categories of protected material, computer programs embodied in that material be accorded the protection attached to those categories (p. 111).	Computer programs in human-readable form will continue to be eligible for traditional copyright protection (p. 81).	Computer programs should be protected by the revised law as a separate category of subject matter with the full regime of protection on the basis of reciprocity (p. 45).	With regard to recommendation 58, the government agrees in principle that computer programs should benefit from the full regime of protection. However, it will give national treatment to foreign computer programs (58, p. 9).	...
<i>Computer Programs in Machine-Readable Form</i>	...	A computer program in machine-readable form will be eligible for computer program copyright (p. 82). All copies of a machine-readable program published with the consent of the computer program copyright owner shall be marked with a "c" in a circle, the year of publication, and the name of the computer program copyright owner in such a manner and location as may be specified by regulation. (Referred to as the computer program copyright notice.). Regulations may require that the machine-readable program be marked in either or both of machine-readable or human-readable form, and that the object containing the machine-readable program be marked in addition to or in lieu of the machine-readable program. Regulations will specify the nature of marking of a modified or updated machine-readable program where the computer program copyright owner is claiming an additional period of protection based upon the modification or updating (p. 84).	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4.(1) (cont'd) <i>Contrivances</i>	<p>That mechanical contrivances be the subject of an independent category of other protected material (p.48).</p> <p>That the Crown be subject to the Copyright Act. That, if the Crown retains prerogative copyright, an exhaustive list of items coming within the prerogative be enumerated in any new Act. That a specific exception be provided for parliamentary use of any copyrighted material in the exercise of legislative functions. That the Crown review its interests in the acquisition, control, administration and assertion of copyright (p. 226).</p>	<p>Copyright will remain in Crown works....There presently exists in Canada a Crown prerogative right to authorize printing and publishing of works such as Acts of Parliament and judicial decisions. To ensure integrity of use of such works, the Crown prerogative right will remain (pp. 75-76).</p>	<p>There should be no copyright in government works except as follows:</p> <p>(a) a moral right of integrity to ensure the accuracy of works in the nature of standards should be provided;</p> <p>(b) works produced by a Crown agency, such as the Canadian Broadcasting Corporation or the National Film Board, the purpose of which is to entertain rather than assist in policy debate and evaluations, should be protected; and</p> <p>(c) custom-made statistics and statistical works in restricted circulation should be protected if it is found desirable to continue the practice of making these works available to particular users on a cost-recovery basis (11, p.11).</p>	<p>The government feels that recommendation 11 raises a number of issues that ought to be examined in greater depth. A number of categories of works produced by the government and its agencies, other than those identified by the Sub-Committee, might require protection (11, p.3).</p>	...
<i>Editions</i>	<p>That new editions of public domain material published by a resetting of the material be protected by copyright. That the protection extend only to providing a right against reproduction and that the general section dealing with this matter contain the following safeguards:</p> <p>a) No new copyright is to be provided, other than in the edition.</p> <p>b) The edition must be a new resetting of a literary, dramatic, musical or artistic work.</p> <p>c) The publisher must be a qualified person at the time of first publication, i.e. a Canadian publisher.</p> <p>d) The term is to be ten years.</p> <p>e) The editions must be marked as claiming typographical copyright, and must show the year of publication, failing which copyright is lost (pp. 112-113).</p>	<p>Although the edition itself is not protected, it may be indirectly protected through its component parts. This protection falls squarely within the kind of creativity the copyright law is designed for, whereas protection of the edition itself or of a new edition does not. Finally, Canada is not obliged to provide such protection by the copyright conventions. For these reasons copyright will not be extended to cover new editions (p.13).</p>	<p>In view of the originality involved in their preparation, editions of literary, dramatic, musical and artistic works should be protected against unauthorized reproduction for 25 years from publication. Protection should be extended on a reciprocal basis to those countries with similar protection (18, p.16).</p>	<p>This recommendation is accepted in principle. However, the conditions and the procedure for the extension of the legislation to foreign editions will be defined in the Act (18, p.4).</p>	...
<i>Films</i>	<p>That motion picture films be protected as specific works, whether or not they are of "original character" (p.81)</p>	<p>For clarity and certainty of protection, all cinematographic works will be protected as a single class of original works (p. 10).</p>	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4 (1) (cont'd) <i>Fixation</i>	That fixation be a mandatory requirement of protection (p. 42).	The definition of fixation will include any means capable of capturing the work, whether written and notation formats or audio and video recording, including the simultaneous recording of works transmitted by broadcast or direct cable transmission (p. 6).	Fixation should be defined as all means capable of capturing a work, including capture in computer media, but excluding capture in a medium as volatile as a computer's main storage or display screen (54, p.41).	Recommendation 54 will be considered when defining the concept of fixation (54, p.9).	...
<i>Forms</i>	---	The new Act will include a provision to the effect that no work primarily intended to receive information will be considered eligible for copyright protection simply by reason of the arrangement of labels or headings designating the type of information to be provided. Nor will any system or series of such works intended to be used together be considered to be a compilation for purposes of attracting copyright protection (p. 14).	Blank forms should not be specifically excluded from protection, but should be subject to the same criteria as other works (20, p.17).	The government accepts this recommendation (20, p.4).	...
<i>Joint Authorship</i>	---	Works of joint authorship will be protected as long as one of the authors qualifies for such protection (p. 7).	---	---	...
<i>Limited Editions</i>	---	---	---	---	...
<i>Performances</i>	That, subject to resolving the difficulties of viable collective mechanisms, revenue sharing and multiple licensing, a right in performances by Canadian performers be provided in any new Copyright Act. That the exclusive rights granted to a performer be: a) to make a recording of a performance; b) to reproduce recordings of a performance; c) to broadcast and perform in public a performance (p. 117).	In view of the problems identified it has been decided that the unauthorized recording of performances for commercial gain or the use of such unauthorized recordings for that purpose will be made an offense. This will protect performers from those who seek to interfere with the legitimate business of providing public entertainment by means of records and tapes. However, performers will not be provided with copyright in their performances (p. 12).	---	---	...
<i>Qualified Persons</i>	That the protection of the Canadian Act be provided to the following "qualified persons": Individuals a) Canadian nationals; b) those domiciled or resident in Canada; c) non-nationals whose works require protection under the	The Copyright Act will protect the works of the following "qualified persons": Individuals: - Canadian nationals - those domiciled or resident in Canada - non-nationals whose works require protection under the	---	---	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4 (1) (cont'd)	<p>Conventions to which Canada adheres; d) nationals of those countries to which the Act may from time to time extend.</p> <p>Juridical persons: a) bodies incorporated in Canada; b) bodies incorporated in countries signatories to the Conventions to which Canada adheres; c) bodies incorporated in countries to which the Act may from time to time extend; d) organizations (e.g. UN and specialized agencies) to be named in appropriate orders from time to time (p. 45).</p>	<p>conventions to which Canada adheres - nationals of those countries to which the Copyright Act may be extended from time to time.</p> <p>Juridical persons: - bodies incorporated in Canada - bodies incorporated in countries signatory to the conventions to which Canada adheres - bodies incorporated in countries to which the Act may extend from time to time - organizations to be named from time to time by Order in Council (e.g. the United Nations) (pp. 6-7).</p>			
Recordings	<p>That sound recordings be protected by copyright as subject matter distinct from literary, dramatic, musical or artistic works. (p. 89)</p>	<p>Sound recordings will be protected in their own right as a separate class of works (p. 10).</p>	<p>A sound recording should be protected as a separate category of copyright subject matter (64, p.49).</p>	<p>The government accepts this recommendation in principle. However, since these products are different from traditional creative works they will be included in the Act under a separate category although they will benefit from certain of the rights applicable to such works. These rights are known as neighbouring rights (64, p.10).</p>	...
Retransmissions	<p>That in respect of the operations of cable system the following cablecasting rights be provided in in any new Copyright Act:</p> <p>1. Diffusion (where cable systems originate programmes): a) that copyright owners be provided a specific right to authorize the diffusion of their material by cable systems. b) that cable systems be provided protection in programmes they originate, analogous to the protection to be provided to Canadian broadcasters in their broadcasts.</p> <p>2. Rediffusion (where cable systems simultaneously rediffuse broadcasts): that Canadian broadcasters be granted a right to authorize simultaneous rediffusion of their Canadian broadcasts.</p>	<p>During the copyright revision process it became apparent that further consultation was required on whether compensation should be paid for the retransmission of copyright material (p. 89).</p>	<p>A retransmission right should be provided in the revised law (97, p.78).</p>	<p>The government agrees with the principle outlined in recommendation 97 (97, p.15).</p>	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4. (1) (cont'd)	3. Regulation of Rediffusion: a) that, as the granting of the foregoing right will entail determining a basis for and the payment of royalties, appropriate regulatory mechanisms be established. b) that the Copyright Tribunal fix the appropriate fees and establish the necessary safeguards to ensure the equitable assessment, collection and distribution of royalties to Canadians (pp. 143-144).	...	Mask works fixed in semi-conductor chips should be protected by new legislation outside of the Copyright Act (62, p.47). The mask works to be protected are a series of related images that represent the three-dimensional pattern of circuits and components fixed in a semi-conductor chip (63, p.47).	Mask works fixed in semi-conductor chips will be protected in the Copyright Act but will be distinguished from traditional works (62, 63, p.9).	...
<i>Semi-Conductor Chips</i>	...	...	Translations should be expressly included in the revised law as proper subject matter of copyright protection, without prejudice to the rights of the owner of the copyright in the underlying work (19, p.17).	The government accepts this recommendation (19, p.4).	...
<i>Translations</i>	...	...	...	...	...
<i>Videograms</i>	That videograms be treated as motion picture film for the purposes of copyright protection (p. 83).	...	...	...	...
<i>Videotapes</i>	That videotape be treated as motion picture film for the purposes of copyright protection (p. 82).	...	...	...	...
<i>Works not protected by Convention</i>	That Canada not go beyond its present international commitments and protect works in situations not envisaged by the conventions (p. 46).	...	...	...	...
4.(2) Minister may extend copyright to other countries <i>General</i>	That the extension of benefits and rights provided in any new Copyright Act or the provision of any conditions thereunder be accomplished by Order in Council upon the recommendation of the Minister (p. 230).	...	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4.2 (cont'd) <i>Broadcasts</i>	The rights should be provided to foreign broadcasters on the basis of reciprocity (77, p.59).	The government agrees with this recommendation in principle. The conditions and mechanism for extending the rights granted under the Act to foreign broadcasters, as suggested in recommendation 77, will be defined in the Act (77, p.12).	...
<i>Computer Programs</i>	Computer programs should be protected by the revised law as a separate category of subject matter with the full regime of protection on the basis of reciprocity (58, p. 45).	With regard to recommendation 58, the government agrees in principle that computer programs should benefit from the full regime of protection. However, it will give national treatment to foreign computer programs (58, p.9).	...
<i>Computer Programs in Machine-Readable Form</i>	...	The protection outlined will extend to nationals of all members of the Univer- sal Copyright Convention and the Berne Convention unless such countries expli- citly exclude computer programs in machine-readable form from copyright protection. Where any member state of the above conventions limit the term of protection for published computer pro- grams in machine-readable form to a term less than five years, the Governor in Council may limit the term of prote- ction in Canada for machine-readable programs created by nationals of those states to a similar period. Similarly, where any member states limit the adaptation right in human-readable programs to a period of less than five years, the Governor in Council may limit that right to a similar period in Canada. The Governor in Council may limit the protection given to machine- readable programs created by nationals of states that grant protection only to their nationals, or which do not extend protection to Canadians on the basis of national treatment or reciprocal treatment or which set conditions or formalities for the protection of machine-readable programs that are unduly onerous to foreign nationals and are inconsistent with the international intellectual property regime (pp.84-85).	...	...	...
<i>Editions</i>	Protection should be extended on a reciprocal basis to those countries with similar protection (18, p.16).	This recommendation is accepted in principle. However, the conditions and the procedure for the extension of the	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
4 (2) (cont'd)				legislation to foreign editions will be defined in the Act (18, p.4).	...
Home Copying Rights	...	...	Where works are protected on a reciprocal basis, the owners of copyright in those works should participate in the compensation system on a reciprocal basis (96, p.77).	The government recognizes the merit of the Sub-Committee's objective to compensate creators but will have to examine the best way to implement it (96, p.14).	...
Performance Rights	...	...	The protection of performers' performances should be extended to nationals of those foreign countries which provide similar protection to Canadians (72, p.56).	The government agrees with this recommendation in principle. The rights to be granted to performers under the Act will be defined at a later stage as will the conditions and mechanism for extending these rights to nationals of foreign countries as suggested in recommendation 72 (72, p.11).	...
Public Lending Rights	That a PLR not be provided in a revised Copyright Act (p.123).	If an exclusive right to lend were adopted Canada's international copyright treaty obligations would require payments to non-Canadian copyright holders... Canadian copyright owners would not receive royalties in other countries even if Canada instituted this right. To avoid these negative effects the copyright method of compensation will not be adopted (p.21).	A mechanism should be developed to compensate authors for the public lending of their works by libraries. The scheme should be independent of copyright law (23, p.20).	The government agrees in principle with this recommendation (23, p.5).	...
Public Renting Rights	...	No reference to extension to other countries (p.20).	No reference to extension to other countries (92, p.73).	No reference to extension to other countries (92, p.14).	...
Recording Rights	...	...	Public performance, transmission and retransmission rights should be extended only to nationals of those foreign countries which provide similar protection to Canadians (65, p.51).	The government accepts this recommendation in principle. Apart from the right of reproduction recognized under the present Act, regardless of their national origin, the new Act will grant them public performance, transmission and retransmission rights. The conditions and mechanism for extending these new rights to sound recordings of foreign origin as suggested in recommendation 65 will, however, be defined in the Act (65, p.10).	...
Retransmission Rights	...	...	Where works are protected on a reciprocal basis, the owners of copyright should benefit from a retransmission right on a reciprocal basis (98, p.78).	No formal government response to recommendation 98 (98, p.15).	...
4 (3) Copyright in records and contrivances	...	...	...	...	...
4 (4) Nature of copyright	...	...	...	...	...

TERM OF COPYRIGHT

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
TERM OF COPYRIGHT <i>5 Term of Copyright General</i>	... ... That the general term of protection remain life of the author plus 50 years, for all published original works(p. 63)	... ... The general term will be slightly modified from the date of the author's death plus 50 years to a calculation dating from the end of the year of death (p. 55).	... ... ...	... ... ...	... ... ...
<i>Anonymous or Pseudonymous Works</i>	That published anonymous or pseudonymous works be protected for a period of 50 years from publication, but that where the author's identity is not in doubt or where he discloses his identity during the period, the ordinary term of protection apply. That a publication under two or more names not be considered pseudonymous unless all names are pseudonymous. That the known author of a pseudonymous work be deemed the sole author of that work (p.67).	The new Act will explicitly provide that the term of protection for works by unknown authors will be the same as that given to unpublished sound recordings and cinematographic works: that is, 75 years from creation (p.57).	...	...	...
<i>Audio Visual Works</i>	...	...	Audio-visual works should be protected for the shorter of 50 years following publication or 75 years following fixation (51, p.36).	The government agrees with this recommendation in principle (51, p.8).	
<i>Broadcasts</i>	That the term of protection be 50 years from the time of the making of the broadcast (p.107).	...	Broadcasts should be protected for a period of 25 years from the date of their fixation (78, p.59).	The government agrees with this recommendation in principle (78, p.12).	...
<i>Computer Programs</i>	...	The right of a copyright owner to authorize (or prohibit) a machine-readable computer program based upon a published computer program in human-readable form will last five years from the year of creation of the human-readable program (p.82). The term of protection for an unpublished machine-readable program will be five years from the date of creation. The term of protection for a published machine-readable program will be five years from the year of publication. If a machine-readable program is published more than five years after its date of creation, it will not be eligible for computer program copyright (p.83). If computer programs in machine-readable form are protected under the	The term of protection for computer programs should be the life of the author plus 50 years (60, p.46).	The government agrees with this recommendation in principle (60, p.9).	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
5 (cont'd)		current Copyright Act, and if a particular computer program in human-readable form is protected under the Act, the right to prohibit the making of a machine-readable program based upon the human-readable program will continue for five years after the coming into force of the new Act... If a machine-readable program is protected under the current Copyright Act, it will be entitled to protection under the terms of the new Copyright Act for five years after it comes into force (p. 85).			
<i>Corporate Owner</i>	That relevant variations of the rule be made to clarify cases where the original owner is a corporation. This variation would also apply to situations where, by virtue of an employment relationship, copyright originally vests with the employer (p. 63). The term is to be ten years (p. 113).	...	The revised law should recognize that corporate and cooperative entities can hold and exercise full rights, including moral rights (14, p.13).	The government agrees with this recommendation (14, p.4).	...
<i>Editions</i>		...	In view of the originality involved in their preparation, editions of literary, dramatic, musical and artistic works should be protected against unauthorized reproduction for 25 years from publication. Protection should be extended on a reciprocal basis to those countries with similar protection (18, p.16).	This recommendation is accepted in principle. However, the conditions and the procedure for the extension of the legislation to foreign editions will be defined in the Act (18, p.4).	...
<i>Films</i>	That the term of protection be 50 years from date of the making of a film (p. 81).	The term of protection for ... cinematographic works will extend until expiry of either of the following - the period from the date of first publication until the end of that year plus 50 years thereafter or in instances where the work is not published, the period from creation until the end of that year plus 75 years thereafter (p. 56).	...	...	...
<i>Moral Rights</i>	That the term of protection for moral rights be the same as for pecuniary rights, and accorded to original literary, dramatic, musical and artistic works (p. 59).	Under the new Act ... authors' moral rights will last for the same term as their economic rights since there is not always a clear distinction between the two (p. 58).	The term of protection for moral rights should be the same as the term of protection for economic rights (4, p.8).	The government agrees in principle with this recommendation (4, p.2).	...
<i>Performances</i>	That the term of protection be 20 years calculated from the date of the first fixation of the performance (p. 117).		Performers' performances should be protected for a term of at least 20 years from the time of fixation of the performance (74, p.57).	The government agrees with this recommendation in principle (74, p.11).	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
5 (cont'd) 6. <i>Term of copyright in posthumous works</i>	That the term of protection provided to literary, dramatic and musical works unpublished at the author's death be until publication or public performance and for 50 years thereafter, but that the total term of protection not exceed 75 years after the death of the author, or 100 years after his death where the work has been deposited in an archives (p. 65). That an anonymous or pseudonymous work, unpublished at the time of the author's death, be protected until publication and for 50 years thereafter, provided that the total term of protection not exceed 75 years from the date of creation of the work, or 100 years from the date of creation in the case of a work deposited in an archives (p. 67).	The general term of life plus 50 years does provide an adequate measure of protection from any ... derogation. Thus the general term will hold for all works, and the present provisions dealing with posthumous works will be abolished (p. 57).	...	...	...
7 (1) <i>Reproduction of work after death of author</i>	That sections 7 and 13 be repealed (p. 76).	Licences will be abolished in the new Act (p. 36).	The reproduction, public performance and printing compulsory licenses should not be retained in the revised law (27, p.23).	The government accepts this recommendation (27, p.5).	<p><i>Reference</i> The French version of the said Act is further amended by substituting the word "droit" for the word "tantième", with such grammatical modifications as the circumstances require, wherever the latter word occurs in the following provisions: (a) subsections 7(1) and (2) (15, p.17).</p> <p>Coming into Force (Amendment) Section 15 shall come into force on a day to be fixed by proclamation (26, p.21).</p>
7 (2) Regulations 8 (1) <i>Cases of joint authorship</i>	That term of protection for joint works be life plus 50 years calculated from the death of the last surviving author, subject to the recommendations governing anonymous and pseudonymous works (p. 68).	The present term of protection for works of joint authorship will be retained (p. 56).	...	...	...
8 (2) Nationals of other countries 9. <i>Term of copyright in photographs</i>	That photographs and engravings enjoy the same term of protection as all other artistic works: 50 years after the death of the author (p. 66).	Since there does not appear to be any overriding policy considerations meriting retention of the shorter term of protection accorded to photographs, under the new Act the term will be the same as for all other artistic works (p. 56).	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
10. <i>Term of copyright in records and perforated rolls</i>	That copyright subsist for 50 years from the end of the calendar year in which the recording was first made (p. 89).	The term of protection for sound recordings and cinematographic works will extend until expiry of either of the following - the period from the date of first publication until the end of that year plus 50 years thereafter - in instances where the work is not published, the period from creation until the end of that year plus 75 years thereafter (p. 56).	Sound recordings should be protected for the shorter of 50 years following publication or 75 years following fixation (70, p.52).	The government agrees with this recommendation in principle (70, p.10).	---
11. <i>Where copyright belongs to Her Majesty</i>	That the Crown be subject to the Copyright Act. That, if the Crown retains prerogative copyright, an exhaustive list of items coming within the prerogative be enumerated in any new Act. That a specific exception be provided for parliamentary use of any copyright material in the exercise of legislative functions. That the Crown review its interests in the acquisition, control, administration and assertion of copyright (p. 226).	There will be no specific provisions in the new Act regarding the term of protection for works prepared or published by or under the control of the Crown. The term will be the same as that attaching to the particular category of work created (p. 58). In many cases, however, the exploitation of Crown-produced works, such as those of the National Film Board and the CBC, is dependent upon the exercise of copyright. As the Crown can waive its rights where protection is not required, copyright will remain in Crown works. The continuation of Crown copyright ensures that the Crown will be able to enforce its copyrights when such action is in the public interest. In order to assuage fears that the Crown might unduly restrict public access to important government materials, guidelines will be formulated outlining government policy and indicating the classes of works for which Crown copyright will or will not be enforced (p. 75). There presently exists in Canada a Crown prerogative right to authorize printing and publishing of works such as Acts of Parliament and judicial decisions. In view of the above proposals for the exercise of Crown copyright, and in order to ensure integrity of use of such works, the Crown prerogative right will remain (pp. 75-76). Even if the government accepts as a general principle that employees, including Crown employees, should be the first owner of copyright, employee ownership will not extend to copyright in works such as judicial pronouncements and works of the legislature, which will	There should be no copyright in government works except as follows: (a) a moral right of integrity to ensure the accuracy of works in the nature of standards should be provided; (b) works produced by a Crown agency, such as the Canadian Broadcasting Corporation or the National Film Board, the purpose of which is to entertain rather than assist in policy debate and evaluations, should be protected; and (c) custom-made statistics and statistical works in restricted circulation should be protected if it is found desirable to continue the practice of making these works available to particular users on a cost-recovery basis (11, p.11). Statutes, regulations and judicial decisions of courts and tribunals at all levels of jurisdiction should be in the public domain (10, p.10).	The government feels that recommendation 11 raises a number of issues that ought to be examined in greater depth. A number of categories of works produced by the government and its agencies, other than those identified by the Sub-Committee, might require protection (11, p.3). The government agrees in principle with recommendation 10. It has begun consultations on this subject with the provincial governments (10, p.3).	---

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
11 (cont'd)		<p>be owned by the Crown. This will ensure that copyright in the laws of the land and in all judicial decisions will always belong to the Crown and not to any individual (p. 76).</p> <p>Since it is recommended that the Crown enjoy copyright protection for its own works, it would seem appropriate for the Crown to accept the obligations imposed upon other users. For these reasons both the federal and provincial governments will be explicitly bound by the new Act (pp. 76-77).</p>	<p>The Crown in the right of Canada and in the right of every province should be subject to the provisions of the Copyright Act. Any exception to the above rule should be included in statutes dealing with emergency powers rather than in the Copyright Act (9, p.9).</p> <p>Provincial public documents should have the same copyright status as federal ones and consultations should take place between the two levels of government on this issue (12, p.12).</p> <p>Written submissions sent to Parliament, Legislatures or to public bodies of inquiry should be in the public domain from the time of their receipt (13, p.12).</p>	<p>The government agrees in principle with recommendation 9. It has begun consultations on this subject with the provincial governments (9, p.3).</p> <p>The government feels that recommendation 12 raises a number of issues that ought to be examined in greater depth. A number of categories of works produced by the government and its agencies, other than those identified by the Sub-Committee, might require protection (12, p.3).</p> <p>The government agrees in principle with recommendation 13. It has begun consultations on this subject with the provincial governments.</p> <p>As for recommendation 13, it will be necessary to ensure that this will not entail the removal of rights - particularly moral rights - that are not needed for the purpose of achieving the objectives sought by this recommendation (13, p.3).</p>	

OWNERSHIP OF COPYRIGHT

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
OWNERSHIP OF COPY- RIGHT 12.(1) Ownership of copyright Author-as First-Owner	... ... The author (<i>will</i>) be the first owner of copyright (p. 71).	... ... The new Act will maintain the author- as-first-owner criterion wherever appropriate but ... there will be certain instances where the rule may have to be qualified (p. 29).	... ... ... Where a work created with the assistance of a computer is original the copyright in that work should be owned by the person responsible for its making and not by the owner of the copyright in the original program (56, p.43).	... ... ... The government agrees with these recommendations in principle (56, 57, p.9).	... ... ...
Computer Works	... That ownership of copyright in a film rest with the "maker" defined as the person by whom the arrangements necessary to make the film were undertaken (p. 81).	... The new Act will... provide that the author of a cinematographic work is, in essence, the producer, defined as the person principally responsible for the arrangements undertaken for the making of the work. The various contributors, like the contributors to a collective work, will continue to have copyright in their individual contributions insofar as they are subject matter of copyright, and provided they have not assigned copyright to the producer (p. 30).	... Ownership in compilations produced by computer data storage and retrieval systems should be vested in the individual or entity primarily responsible for the arrangement undertaken for making the compilation (57, p.44).	... The government agrees with this recommendation in principle.	...
Performances	... That the "maker" be defined as the person or entity by whom the arrangements necessary to make the recording were undertaken (p. 89).	... The person principally responsible for the arrangements undertaken for the making of the sound recording will be defined as the author. In most instances this person will be the record producer (p. 30).	Performers should be the first owners of the copyright in their performances (73, p.56).	The government agrees with this recommendation in principle. Recommendation 73 will be subject to recommendation 15 (<i>regarding</i> <i>employees</i>), on which we have already commented (73, p.11).	...
Recordings			The owner of the copyright in a sound recording should be the individual or entity principally responsible for the arrangements undertaken for its making (66, p.52).	The government agrees with this recommendation in principle (66, p.10).	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
12 (2) Engraving, photograph or portrait	That ownership in a photograph vest in the person owning the material on which the photograph is taken (p. 71).	In the new Act the author of a photograph will be considered to be the person who "composed" the photograph, e.g., the photographer (p. 29). Section 12.(2) will be repealed, and the Act will provide that subject to an arrangement to the contrary the author of any work is the initial owner of the copyright therein, notwithstanding the fact that the work was commissioned (p. 31).	Ownership of copyright in a photograph should vest in the person who composed the photograph (36, p.30). There should be no specific exception from copyright liability for the benefit of photofinishers (37, p.30). The copyright in commissioned engravings, photographs and portraits should vest in the author (17, p.14).	The government agrees in principle with these recommendations (36, 37, p.6). The government agrees with this recommendation (17, p.4).	...
12 (3) Work made in the course of employment General	That the ownership of the copyright in any commissioned work be vested in the person commissioning the work, in the absence of an agreement to the contrary... That, similarly, the principle that the employer is the first owner of the copyright in works made by his employees in the course of their employment, be retained (p.71).	Public comment is invited on the issue of the first ownership of works created by employees during the course of their employment (p. 31).	First ownership of copyright should vest in an employer in the case of works created by employees in the course of employment subject, as now, to any agreement to the contrary (15, p.14). The revised law should clarify the meaning of "employee" (16, p.14).	The government agrees with these recommendations. However, it will study whether the term "employee" should be defined in the Act, as suggested by the Sub-Committee in recommendation 16 (15, 16, p.4).	...
Crown Employees	...	Even if government accepts as a general principle that employees, including Crown employees, should be the first owner of copyright, employee ownership will not extend to copyright in works such as judicial pronouncements and works of the legislature, which will be owned by the Crown. This will ensure that copyright in the laws of the land and in all judicial decisions will always belong to the Crown and not to any individual (p. 76).	...	...	...
Periodicals	That, unless otherwise provided by contract, where a contribution to a particular periodical is ordered by a proprietor: (i) the proprietor be entitled to the copyright only insofar as it relates to publication in that periodical; (ii) the author be entitled to the copyright in all other respects. That the principle be recognized that a work commissioned for one purpose cannot be used for another, unless there is an agreement to the contrary (p. 71).	...	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
12.(7) (cont'd) <i>Right to Claim Authorship</i>	a) the author's right to enjoy respect for his authorship, including a right to restrain false attribution of authorship and a right to restrain the circulation of copies of the work under his real name where he has chosen to use a pseudonym or to remain anonymous;	This right will allow a creator to: claim authorship of a work, which means the right to have his or her name appropriately used in connection with the work; use a pseudonym or remain anonymous with respect to his or her work; restrain others from claiming authorship of his or her work. The above rights will be qualified by allowing them to be waived by an author if so desired.		...	...
<i>Right of Integrity</i>	b) the author's right to restrain any distortion, mutilation or other modification of his work, or any action in relation to the said work, which would be prejudicial to his honour or reputation;	Creators have the right to restrain any distortion, mutilation, or other modification of their work that would be prejudicial to their honour or reputation. The revised Act will retain this right...and reflect the similar provisions of the Rome Text of the Berne Convention....However, a subsequent copyright owner will be able to make such changes as are reasonable in adapting the work to another medium or form or to another length or duration if the author transfers the right to adapt to a subsequent owner.		As above	As above
	c) the author's right to restrain any distortion, mutilation, modification or any other action in relation to the original of an artistic work in the nature of a sculpture, a painting, a drawing or an engraving;	The moral rights provisions will be amended to protect artists when the unique original of an artistic work has been modified without consent. To prevent possible misuse ... it will be made clear that the right does not extend to or encompass the physical relocation of the work or the physical means by which the work is displayed, exhibited or otherwise made perceptible and that any alteration, destruction or change in the structure containing the work that results in a distortion, mutilation or modification of the work is not actionable. In addition, legitimate restoration or preservation activities will not be actionable (p. 26-27).	The revised Act should provide a moral right to prevent any modification of the original of an artistic work, including an element of a limited edition thereof, even in the absence of evidence of prejudice to the author's honour or reputation (6, p.8). The right should be limited in order to permit the physical relocation of the work, the alteration of a structure containing the work, and legitimate restoration and preservation activities (7, p.8).	As above	...
<i>Right of Authorization</i>	d) as collaries to the right to publish: the author's right to stop a publication, despite previous authorization, provided that the publisher receives compensation; and a right, after publication, to withdraw the work from circulation by having the first option to buy back copies available for sale.		The new Act should provide a moral right to authorize the use of any protected work in association with products, services, causes or institutions (5, p.8)	The government agrees in principle with this recommendation. However, recommendation 5 will not extend to works for which a blanket licence has been granted by a collective society of copyright owners so as not to oblige users to obtain a second authorization for works that such societies	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
12 (7) (cont'd)				have been assigned to administer (5, p.2).	
<i>Right of Corporate or Legal Entity</i>	...	When the author is a corporate or other legal entity, the same moral rights will be accorded to the corporate author as pertains to a human author (p. 33).	The revised law should recognize that corporate and co-operative entities can hold and exercise full rights, including moral rights (14, p.13).	The government agrees with this recommendation. However, it will study whether the term "employee" should be defined in the Act, as suggested by the Sub-Committee in recommendation 16 (14, p.4).	...
<i>Rights in Musical Works</i>	...	...	The full range of economic and moral rights should apply to musical works, including the new moral right of endorsement (39, p.31).	The government agrees with this recommendation in principle. Recommendation 39 will be subject to the reservation made in our response to recommendation 5 (<i>blanket licence to collective society</i>) (39, p.7).	...
<i>Right of Testamentary Disposition</i>	That moral rights be attached to the person of an author, but that they may be transmitted on the death of the author to his heirs or, through testamentary disposition, to a third party (p. 59).	...	...	...	...
MORAL RIGHTS					
12.1	...	...	...	...	The author of a work has, subject to section 18.2, the right to the integrity of the work and, in connection with an act mentioned in subsection 3(1), the right, where reasonable in the circumstances, to be associated with the work as its author by name or under a pseudonym and the right to remain anonymous (4, p. 2).
12.1 (1) <i>Moral Rights</i>	...	...	...	...	Moral rights may not be assigned but the author of a work may waive the rights or any of them (4, p. 2).
12.1 (2) <i>No assignment of moral rights</i>	...	...	...	...	An assignment of copyright in a work does not by that act alone constitute a waiver of any moral rights (4, p. 3).
12.1 (3) <i>Waiver not deemed</i>	...	...	...	...	Where a waiver of any moral right is made in favour of an owner or a licensee of copyright, it may be invoked by any person authorized by the owner or licensee to use the work, unless there is an indication to the contrary in the waiver (4, p. 3).
12.1 (4) <i>Effect of waiver</i>	...	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-60 May 27, 1987
12.1 (4) (cont'd)	---	---	---	---	Transitional <i>Application re moral rights</i> The rights referred to in section 12.1 of the <i>Copyright Act</i> , as enacted by section 4, subsist in respect of a work during the term mentioned in that Act even if the work was created before the coming into force of section 4 (21(1), p.20).

COMPULSORY LICENCES, LICENCES, & SERIAL LICENCE

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDEMENTS BILL C-20 May 27, 1987
COMPULSORY LICENCES 13. Where owner of copy- right compelled to grant licence General Retransmission Translation	<p>That sections 7 and 13 be repealed (p. 76).</p> <p>...</p> <p>...</p>	<p>Licences will be abolished in the new Act (p. 36).</p> <p>...</p>	<p>...</p> <p>The reproduction, public performance and printing compulsory licences should not be retained in the revised law (27, p.23).</p> <p>The right of retransmission to be provided in the revised law should be limited by a compulsory licence, with tariffs to be established by the Copyright Appeal Board (102, p.81).</p> <p>The government agrees with the principle outlined in recommendation 102 (102, p.15).</p>	<p>...</p> <p>The government accepts this recommendation (27, p.5).</p> <p>The government agrees with the principle outlined in recommendation 102 (102, p.15).</p> <p>The government accepts this recommendation (26, p.5).</p>	<p>...</p>
	<p>That sections 14, 15 and 16 be repealed (p. 78).</p> <p>...</p> <p>...</p>	<p>Compulsory licensing provisions, based on those in the UCC will be introduced into the new Copyright Act (p. 38).</p> <p>...</p> <p>...</p>	<p>...</p> <p>The revised law should not provide for a compulsory licence to translate literary works (26, p.23).</p>	<p>...</p> <p>The government accepts this recommendation (26, p.5).</p>	<p>...</p> <p>Reference The French version of the said Act is further amended by substituting the word "droit" for the word "tantième", with such grammatical modifications as the circumstances require, wherever the latter word occurs in the following provisions: (b) subsection 14(8); (c) subsections 16(6) and (7) (15, p.17).</p>
	<p>That a non-exclusive licence to use a work be obtainable upon application to the Copyright Tribunal and granted on such terms and conditions as the Tribunal may determine providing:</p> <p>a) the author of the work has died;</p> <p>b) the applicant wishes to use the work as it had previously been used with the author's consent and has not been able to locate the owner of the copyright in the work;</p> <p>c) the applicant has complied with</p>	<p>Where copyright owners cannot be located and use of their work could constitute infringement, a revised Copyright Appeal Board will be able to grant a non-exclusive licence to use the work in a specified manner. The licence will be obtainable upon certain conditions:</p> <p>- proof, to the satisfaction of the Board, that a reasonable effort has been made to locate the copyright owner;</p>	<p>Provision should be made in the revised law for the Copyright Appeal Board to issue non-exclusive licences where a copyright owner cannot be located (28, p.24).</p>	<p>The government agrees with this recommendation. Such licences will be issued subject to the conditions stated in From Gutenberg to Telidon, particularly the following conditions:</p> <p>- proof, to the satisfaction of the Board, that a reasonable effort has been made to locate the copyright owner;</p> <p>- payment of royalties approximating what would be negotiated in the marketplace;</p>	<p>...</p> <p>Coming into Force (Amendment) Section 15 shall come into force on a day to be fixed by proclamation (26, p. 21).</p>
Unallocatable Copyright					

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDEMENTS BILL C-20 May 27, 1987
14, 15, 16 (cont'd)	<p>the criteria established by the Tribunal for determining the adequacy of the applicant's search for the owner;</p> <p>d) the applicant has complied with all terms and conditions imposed by the Tribunal; and</p> <p>e) appropriate arrangements have been made for the payment of royalties should the copyright owner be located.</p> <p>That the granting of such a licence not constitute infringement of the copyright in the work.</p> <p>That the Copyright Tribunal have the sole discretionary power to issue such a licence.</p> <p>That the exception not affect or modify any other compulsory licensing provision(pp. 175-176).</p>	<p>- payment of royalties approximating what would be negotiated in the marketplace;</p> <p>- proof that the work against which the licence is sought has been published (p. 37).</p>		<p>- proof that the work against which the licence is sought has been published. (28, p.5)</p>	

INFRINGEMENT OF COPYRIGHT

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
INFRINGEMENT OF COPYRIGHT 17 (1) Infringement of copyright Computer Information Storage and Retrieval Systems	... ... That unauthorized recording of unpublished copyright material for use in an ISRS constitute an infringement ...That the unauthorized output by an ISRS of legally stored copyright material, whether effected by printout, cathode ray tube display, or otherwise, constitute an infringement (p. 129).	... ... Copyright material will be protected regardless of the medium of expression. Hard copies such as magnetic tapes and discs will be considered copies, thus making unauthorized reproduction in these formats an infringement (p. 11).	... ... ...	... ... ...	... ... ...
Computer Programs in Machine-Readable Form	... It will be an infringing act with respect to a protected machine-readable program: a) to do or authorize any act to which the owner of the program copyright has the exclusive right; b) to sell, lease, license, trade, or import, or to authorize any such acts with respect to any machine- readable program that the alleged infringer knows or has reasonable grounds to suspect is an infringing copy (p. 83).	It will be an infringing act with respect to a protected machine-readable program: a) to do or authorize any act to which the owner of the program copyright has the exclusive right; b) to sell, lease, license, trade, or import, or to authorize any such acts with respect to any machine- readable program that the alleged infringer knows or has reasonable grounds to suspect is an infringing copy (p. 83).	... ... ...	... ... ...	... ... ...
Discovery	That there be a statutory right of discovery whereby a copyright owner may compel disclosure of whether any of his copyright material is or has been stored in an ISRS. That where, after the expiration of a period to be fixed by regulation, there is a failure to answer a request for discovery or there is a false answer given to that request, the storing of copyright material in an ISRS become an infringement subject to all remedies afforded by the Act (p. 129).	... ... It will be an infringing act with respect to a protected machine-readable program to remove, obscure, or alter the computer program copyright notice required by the Act. It will be an infringing act with respect to an unpublished protected machine- readable program to add a computer program copyright notice without the consent of the computer program copyright owner (p. 84).	... ... ...	... ... ...	... ... ...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17.(1) (cont'd) <i>Recordings</i>	That, for greater certainty, any new Act specify that, where the conditions of the licence are not met, the licence cannot issue, and in such a case mechanical reproduction of the work is an infringement (p. 105). That the copyright in a musical work be considered infringed when a sound recording is duplicated without authorization, even where other conditions for the issuance of a compulsory licence have been met (p. 100). That photocopying not be subject of any specific provisions (p. 165).	...	...	...	...
<i>Reprography</i>		The reproduction of copyright works by reprography will remain an infringement of copyright in the new law ... the onus for enforcing existing rights would continue to lie with copyright owners (pp. 40-41).	A specific right of reprographic reproduction should not be introduced (24, p. 21).	The government agrees in principle with this recommendation (24, p. 5).	...
17.(2) Acts not constituting infringement of copyright Access to Information	...	Sections 17(2)(i) and (j) and section 17(6) were added as a result of the Access to Information Act. These exemptions will be retained in the new Act (p. 53).	...	...	...
<i>Agricultural Fairs</i>	That the exception now allowed by s 17(2)(g) be deleted (p. 154).	Section 17(2)(g) ... will be abolished, to be replaced by a system of blanket licences. Calculation of royalties payable to the holders of public performance rights for musical works could be approved in advance by a revised Copyright Appeal Board under the system operated by the musical performing rights societies (p. 50).	The revised law should not contain an exception for fairs and exhibitions from the payment of royalties for the public performance of music (40, p. 32).	The government agrees with this recommendation (40, p. 7).	...
<i>Art in Public Places</i>	That the exception now allowed by s 17(2)(c) be maintained but expressed in the words of the UK Copyright Act, s 9(3), s 9(4), and s 9(6) (p. 151).	An exemption similar to the current section 17(2)(c) will be retained, for it is in the nature of works situated in public places to be considered as part of the public landscape. The exemption will also be extended to cinematographic and broadcast reproductions of such works (p. 51).	...	...	...
<i>Computer Programs</i>	That it be specified in the infringement action of the Act that nothing in the Act prevents the use of a computer program to operate a computer (p. 111).	The right of a copyright owner to authorize (or prohibit) a machine-readable program based upon a published computer program in human-readable form will last five years from	The Act should provide an exception to the right of reproduction to permit the making of a back-up copy (59, p. 46).	The government agrees with this recommendation in principle (59, p. 9).	Subsection 17(2) of the said Act is amended by striking out the word "and" at the end of paragraph (i) thereof and by adding thereto the following paragraphs:

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17 (2) (cont'd)		<p>the year of creation of the human-readable program. After this time, any person with access to the program in human-readable form may use it to make a machine-readable program which will not constitute an infringement of either the underlying human-readable program or of any other machine-readable program based upon the human-readable program (p. 82).</p> <p>There will be a fair use provision similar (or identical to) the provision proposed for works protected by traditional copyright (p. 83).</p> <p>No act done with respect to a machine-readable program will be considered an infringing act with respect to the human-readable program upon which it is based (p. 84).</p>	<p>The government should study the possibility of providing an exception to permit the reproduction of a substantial part of a pre-existing program as a non-substantial part of another program (61, p.46).</p>	<p>The government has studied the possibility of providing the exception suggested in recommendation 61 but has decided against it (61, p.9).</p>	<p>(l) where a person is in lawful and actual possession of a copy of a computer program, which copy is authorized by the owner of the copyright, the making by the person of a reproduction of the copy by adapting, modifying or converting the computer program or translating it into another computer language if the person proves that</p> <ul style="list-style-type: none"> (i) the reproduction is solely for the person's own use, (ii) not more than one reproduction is used by the person at any given time while the person is in lawful and actual possession of the copy of the computer program, and (iii) the reproduction is forthwith destroyed when the person ceases to be entitled to the lawful and actual possession of the copy of the computer program; and <p>(m) where a person is in lawful and actual possession of a copy of a computer program, which copy is authorized by the owner of the copyright, the making by the person of a reasonable number of reproductions of the copy or of a reproduction referred to in paragraph (l) if the person proves that</p> <ul style="list-style-type: none"> (i) while the person is in lawful and actual possession of the copy of the computer program, not more than one of the reproductions is used by the person at any given time and the reproduction is used in lieu of the copy of the computer program or the reproduction referred to in paragraph (l), and (ii) the reproductions are forthwith destroyed when the person ceases to be entitled to the lawful and actual possession of the copy of the computer program (5, pp. 3-4)

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17 (2) (cont'd) <i>Cultural Property Export and Import Act</i>	...	<p>The public interest in preserving in Canada a copy of materials of cultural and historic significance justifies the limited qualification on the rights of copyright owners contained in this exemption... The present exemption will be retained (p. 53).</p> <p>There will not be a general exemption for the reproduction of copyright material for educational purposes... There will, however, be an exemption allowing educators to make copies of works for examination purposes (pp. 42-43).</p>	...	...	...
<i>Educational Use</i>	<p>That the exception now allowed by s 17(2)(d) be maintained; that it apply to published literary or dramatic works as set forth in s 6(6) of the UK Act, subsections(a), (b), and (d) only (p. 152).</p>	<p>The new Act will ... provide both a definition of fair dealing (to be termed "fair use") and a prioritized list of factors to be considered in determining whether a particular use of a work is a fair use. "Fair Use" will be defined as a use that does not conflict with the normal exploitation of the work or subject matter and does not unreasonably prejudice the legitimate interests of the copyright owner... In addition to the new term "fair use", there will be a prioritized list of factors that the courts will consider in reaching judgements in particular cases.</p> <p>The first is the impact of the use on a copyright owner's economic reward... Secondly, the type of work involved and its purpose are also relevant... The final factor to be considered is the amount or extent of taking... This fair use doctrine will apply to all copyright subject matter (p. 39-40).</p> <p>Present sections 18, 17(2)(a) and 17(2)(e) will be deleted. The new fair use provision ... may be broad enough to allow fair use of copyright material based on the needs of press reporting and analysis, and could be applied to all media... Where the fair use doctrine cannot resolve the tensions between copyright and freedom of speech and the press, resort could be had to section 2(b) of the Canadian Charter of Rights and Freedoms.</p>	<p>An exception should be provided to allow for the reproduction of a work as part of questions to be asked, or answered, in an examination (91, p.71).</p>	<p>The government accepts this recommendation (91, p.14).</p>	...
<i>Fair Dealing</i>	<p>That "fair dealing" apply to protected material for the purposes of:</p> <ul style="list-style-type: none"> a) private study; b) research; c) criticism, or review - whether of that work or of another, where the criticism is accompanied by a sufficient acknowledgment of the work; and d) summary <ul style="list-style-type: none"> i) in a newspaper, magazine or similar periodical, or ii) by means of a broadcast, or in a motion picture film, where such reporting is accompanied by a sufficient acknowledgment of the work (p. 149). 	<p>The present fair dealing provisions should not be replaced by the substantially wider "fair use" concept (82, p.65).</p> <p>The nature of fair dealing as a defense to an action for infringement should not be changed (83, p.65).</p> <p>The purposes for which fair dealing can be a defense should be retained but should be revised to indicate that research must be private to qualify and to indicate that all media of news reporting are covered (84, p.66).</p> <p>Factors to be considered by the court may be listed but should be illustrative only and not prioritized (85, p.66).</p> <p>Fair dealing should not apply to unpublished works (86, p.66).</p>	<p>The government agrees with these recommendations in principle. The Act will, however, grant the benefit of the fair dealing exception for research purposes, private or otherwise, for unpublished works deposited with archival or conservation institutions. Finally, the government will examine the possible impact of these recommendations on research practices in general (82, 83, 84, 85, 86, p.13).</p>	...	...
<i>Freedom of Speech and the Press</i>	<p>That the exception now allowed by s 17(2)(e) be extended to include reports given by means of broadcasts and programs originated by diffusion services (cable) (p. 153).</p>			...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17(2) cont		However, to avoid possible confusion or misinterpretation of the limits of copyright, there will be an explicit exemption allowing the press to carry on its necessary reporting and analysis function (p. 49).			
<i>Matrices of Artistic Work</i>	That the exception now allowed by s 17(2) be retained, but expressed in the words of the UK Copyright Act, s 9(9) (p. 150).	The end of the section will be amended to read that there will be no infringement "if the subsequent work taken as a whole does not repeat or imitate the main design of the previous work" (p. 52).			...
<i>Public Reading</i>	That the exception now allowed by s 17 (2)(f) be restricted to published literary or dramatic works, properly acknowledged, but should not apply to broad-casts or diffusion by cable services (p. 153).	The limited purposes served by this section can be better served by the new fair use provision ... This section will therefore be deleted (p. 52).			...
<i>17 (3) Further exemptions Archival Purposes</i>	That no statutory exceptions be provided to libraries and archives with respect to copyright material deposited therein, other than to permit the making of a copy for the sole purpose of preserving the material which is deteriorating or damaged (p. 175).	An exemption will be introduced ... permitting libraries and archives to make limited numbers of copies of unpublished, out of print or otherwise unavailable material already in their collections for reference or preservation purposes (p. 43).	The revised law should provide an exception to permit an archival institution to make a copy of a work which is not otherwise available and which is already in its collection, for the purpose of preserving the archival copy of that work (88, p.70).	The government accepts this recommendation (88, p.14).	...
<i>Computer Information, Storage & Retrieval Systems</i>	That the making of a contrivance embodying published copyright material for ISRS purposes, and its input into an ISRS, not constitute infringement, subject to a right of discovery (p. 129).		An exception should be provided to permit an archival institution to make a copy of a work for another archival institution where the latter has received a request for a copy of a work from an individual researcher for the purpose of private research. The making and issuance of copies under this exception should not constitute publication (89, p.70).	The government accepts this recommendation (89, p.14).	...
<i>Educational Broadcasting</i>		A minor exemption will apply to broadcasts, cable diffusions and other forms of program dissemination when the production, origination and receipt of the program are confined to the educational institution. This exemption will be subject to the same conditions as that for educational performances (p. 42).	The revised law should provide an exception to permit teachers and students, in the normal course of teaching activities to: (b) transmit and retransmit a work within the confines of a single educational institution (90, p.71).	The government accepts this recommendation (90, p.14).	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17 (3) (cont'd) <i>Educational Performances</i>	That it be permissible to perform material protected by copyright in the course of activities in a school, without such a performance constituting a performance in public, providing any audience is limited to teachers at or pupils in attendance at that school (p. 173).	A limited specific exemption from the exclusive right of public performance will be granted for certain performances for educational purposes. It will apply to all types of copyright works and be available only for non-profit educational institutions. The exemption will apply only to teaching activities when the performers are students or instructors (pp. 41-42).	The revised law should provide an exception to permit teachers and students, in the normal course of teaching activities to: (a) perform a work in public (90, p.71).	The government accepts this recommendation (90, p.14).	---
<i>Ephemeral Recording</i>	That an exception for "ephemeral recordings" be provided in accordance with the following: a) authorization to broadcast a copyright work should be deemed to include the right to make ephemeral recordings of the work solely for the purposes of broadcasting. b) a recording should be deemed an ephemeral recording if it or copies of it are used solely for the purpose of the authorized broadcasting within a period of 30 days after the day when it or a copy of it was first broadcast (p.168).	The details of the exemption will include several restrictions. Use of the copy will be limited to the broadcasting organization for which it was originally intended. All organizations concerned with broadcasting, or the preparation of programs for broadcasting, will have the right to record agreed on material for their own purposes so long as the material is used solely for the agreed broadcast. The exemption will also apply where a broadcaster commissions an independent producer to prepare a program. Public comment is invited on the length of time that broadcasting organizations should be allowed to retain copies of an ephemeral recording... After the period covered by the exemption, broadcasters will be allowed to retain an archival copy of the program for study or research purposes (pp. 44-45).	Exceptions should be provided for the making of ephemeral recordings by broadcasters: (a) pursuant to CRTC regulations, or (b) in order to permit the broadcast of the program in a different time zone provided that the recording is erased after eight days (80, p.62).	In line with the routine practices of broadcasters, recommendation 80 concerning ephemeral recordings will be amended to cover not only the situations described in paragraphs (a) and (b) of the recommendation but also the situations described in <u>From Gutenberg to Telidon</u> ; thus, - broadcasters and cable or satellite systems will be able to pre-record works for transmission as long as such transmission has been authorized; - the duration of the exception will be extended to 6 months after initial transmission; - upon the expiry of the prescribed period, recording may be kept only for research and study purposes (80, p.12).	---
<i>Handicapped</i>	That no special exception be provided for the benefit of producers of special media material for the handicapped (p. 171).	There will be a general exemption for the benefit of perceptually handicapped persons (p. 46).	The revised law should permit the production of special media materials without the authorization of the copyright owner but with payment to be made in accordance with tariffs established by the Copyright Appeal Board (87, p.68).	The government partly accepts this recommendation, which will not be accompanied by the obligation to pay royalties. This measure is suggested by the appropriate recommendations in the <u>Obstacles</u> report (87, p.13).	---
<i>Incidental Use</i>	That incidental use of an artistic work in a film or broadcast not constitute an infringement of copyright (p. 169).	It is not clear why the ordinary copyright principles should not be applied here when they are applied in most other circumstances of incidental or other use of copyright material. The limited purposes served by this section can be better served by the new fair use provision. Therefore, an "incidental use exemption" will not be adopted (p. 51).	It should not be a copyright infringement to use incidentally an artistic work without authorization in a broadcast (79, p.60). A broadcaster should not be required to identify the authors of works broadcast except where the identification is incorporated in the work itself (81, p.62).	The government agrees with these recommendations (79,81, p.12).	---

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17 (3) (cont'd) <i>Legislative, Judicial and Administrative Proceedings</i>	That any use of protected subject matter for the purposes of judicial proceedings or in official reports of such proceedings not constitute an infringement (p. 166).	A specific exemption will be introduced covering legislative, judicial and administrative proceedings and the publication of official and unofficial reports of such proceedings (p. 49).	Statutes, regulations and judicial decisions of courts and tribunals at all levels of jurisdiction should be in the public domain (10, p.10). Written submissions to Parliament, Legislatures or to public bodies of inquiry should be in the public domain from the time of their receipt (13, p.12).	The government agrees in principle with recommendation 10 and has begun consultations on this subject with the provincial governments (10, p.3). As for recommendation 13, it will be necessary to ensure that this will not entail the removal of rights - particularly moral rights - that are not needed for the purpose of achieving the objectives sought by this recommendations (13, p.3).	...
<i>Libraries</i>	That the defences of fair dealing be available to a librarian who makes a copy of material for a user if that user also has available to him the defense of fair dealing. That no further exceptions for libraries be provided (p. 166).	...	No exception should be provided for reproduction by libraries (25, p.22).	The government agrees in principle with this recommendation (25, p.5).	...
<i>Performance of Musical Works for Charitable Purposes</i>	That the public performance on premises occupied by any religious, educational or charitable organization, where no person obtains a benefit in association with such a performance and where no entrance fee is charged should not constitute an infringement of copyright (p. 156).	The exemption in section 17(3) will be abolished. However, a specific exemption will be provided to allow performances during religious services... The exemption will not apply to services broadcast or diffused outside the location where the service takes place... The fees to be paid by a charitable or religious organization for the performance of a work for charitable or religious purposes will be subject to the approval of the Copyright Appeal Board, which will take into account the altruistic purpose of the performance (pp. 50-51).	The revised Act should provide an exception from copyright liability for the public performance of a musical work during a religious service (41, p.33).	The government agrees with this recommendation in principle (41, p.7).	...
<i>Reconstruction of Buildings</i>	That the reconstruction of a partially or completely destroyed building not constitute an infringement of the copyright in the building, nor an infringement of the copyright in the plans and drawings of the building (p. 170).	The new Copyright Act will contain a provision similar to that in the United Kingdom's legislation allowing for the reconstruction of partially or completely destroyed buildings without the consent of the copyright owners (p. 52).	...	...	...
<i>Three-Dimensional Objects from Two- Dimensional Works</i>	That the making of a three-dimensional object of a two-dimensional artistic work not constitute infringement if the object made is not a reproduction of the original work (p. 169).	...	...	...	...
<i>17 (4) Infringement by personal action</i>	That section 17(4), prohibiting the importation of infringing copies of any	...	...	...	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
17(4) (cont'd)	work, be retained but amended to provide exceptions for individuals importing for private use, and for institutions, as designated in the <u>Isley Report</u> . (p. 203). That the terms of present s 17(4) be retained but also include indirect infringement with respect to all protected subject matter (p. 177).	...	...	...	...
17(5) Public performance for private profit without owner's consent	That the terms of present s 17(5) be retained but without the words "unless he was not aware and had no reasonable ground for suspecting, that the performance would be an infringement of copyright" (p. 177).	...	...	...	...
17(6) Access to Information	...	Sections 17(2)(i) and (j) and section 17(6) were added as a result of the Access to Information Act. These exemptions will be retained in the new Act (p. 53).	...	...	...
18 Report in newspaper of political speech no infringement	That the exception now allowed by s 18 be extended to include broadcasting and diffusion by cable services, in addition to newspapers (p. 156).	Present sections 18, 17(2)(a) and 17(2)(e) will be deleted. The new fair use provision ... may be broad enough to allow fair use of copyright material based on the needs of press reporting and analysis, and could be applied to all media... Where the fair use doctrine cannot resolve the tensions between copyright and freedom of speech and the press, resort could be had to section 2(b) of the Canadian Charter of Rights and Freedoms... However, to avoid possible confusion or misinterpretation of the limits of copyright, there will be an explicit exemption allowing the press to carry on its necessary reporting and analysis function (p. 49).	...	...	...
MORAL RIGHTS INFRINGEMENT 18.1 Infringement generally	...	...	...	...	Any act or omission that is contrary to any of the moral rights of the author of a work is, in the absence of consent by the author, an infringement of the moral rights (6, p. 4).
18.2(1) Nature of right of integrity	...	...	...	...	The author's right to the integrity of a work is infringed only if the work is, to the prejudice of the honour or reputation of the author, (a) distorted, mutilated or otherwise modified, or

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
18.2(1) (cont'd)					(b) used in association with a product, service, cause or institution (6, p. 4).
18.2(2) Where prejudice deemed	...	...	...	...	In the case of an artistic work, other than an architectural work of art, the prejudice referred to in subsection (1) shall be deemed to have occurred as a result of any distortion, mutilation or other modification of the work (6, p. 4).
18.2(3) When work not distorted, etc.	...	...	...	...	For the purposes of this section, (a) a change in the location of a work, the physical means by which a work is exposed or the physical structure containing a work, or (b) steps taken in good faith to restore or preserve the work shall not, by that act alone, constitute a distortion, mutilation or other modification of the work (6, p. 4).
19(1) Making in Canada of records etc., no infringement Film Sound Tracks	That it be specified in any new Act that a film sound track is not a sound recording for the purposes of compulsory licensing for mechanical reproduction (p. 96).	...	...	...	Section 19 of the said Act is repealed (7, p. 4).
Recordings	That the compulsory licensing provision apply to any musical work that has been the subject of a recording issued for retail sale and made by or with the consent of the copyright owner... That the compulsory licensing provision extend only to the making of sound recordings intended for retail sale (p. 94). That, as a condition of the issuance of a compulsory licence to mechanically reproduce a musical work, the musical work must have been embodied in a sound recording previously made in, or imported into, Canada for the purposes of retail sale, by or with the consent of the copyright owner of the musical work (p. 96). That the notice required by s 19(1)(b) and Rule 21(2) be retained with the addition of the following information: a) a warning to the copyright owner of his obligation to answer in	The present compulsory licensing provisions for the recording of literary, dramatic and musical works will be abolished (p. 36).	The revised law should not retain the compulsory licence for the making of sound recordings (42, p.35).	The government accepts this recommendation in principle but will ensure that it is implemented in a flexible manner and will adopt the appropriate transition mechanism if required (42, p.7).	Transitional <i>Making of records perforated rolls, etc</i> It shall be deemed not to be an infringement of copyright in any musical, literary or dramatic work for any person to make within Canada during the six months following the coming into force of (amendment) section 7 records, perforated rolls or other contrivances by means of which sounds may be reproduced and by means of which the work may be mechanically performed, if the person proves (a) that before the coming into force of (amendment) section 7, the person made such contrivances in respect of that work in accordance with section 19 of the Copyright Act and any regulation made thereunder, as they read immediately before the coming into force of (amendment) section 7; and

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
19 (1) (cont'd)	<p>the following ten days and of the consequences of failing to do so;</p> <p>b) information on how many sound recordings the manufacturer intends to make.</p> <p>That Rule 22 be replaced by a provision to the effect that no recordings are to be delivered to a buyer before the notice has been answered or before the expiration of the period to give such an answer, whichever comes first (p. 97).</p> <p>That, upon being served a notice of intention to make sound recordings, the copyright owner have ten days to answer on a form prescribed by regulation, which form shall provide the manufacturer with an address where he must effect payment of mechanical royalties... That the payment of royalties be made on a monthly basis, and be accompanied by a detailed statement of account, certified by a chartered accountant carrying on business in Canada ... That failure on the part of the copyright owner to answer the notice within the ten-day period enable the manufacturer to deposit royalties and statements in trust and in a manner prescribed by regulation (p. 98).</p> <p>That mechanical royalties be paid for every contrivance made under compulsory licence (p. 99).</p> <p>That the substance of present s 19(2) be maintained in any new Act (p. 100).</p> <p>That the principle behind present s 19(3) be retained, but the wording changed to accord with previous recommendations concerning sound recordings. That the copyright in a musical work be considered infringed when a sound recording is duplicated without authorization, even where other conditions for the issuance of a compulsory licence have been met (p. 100).</p> <p>That the substance of Section 19(4) be retained in any new Act (p. 101).</p>				<p>(b) that the making would, had it occurred before the coming into force of <i>(amendment)</i> section 7, have been deemed not to have been an infringement of copyright by section 19 of the <i>Copyright Act</i>, as it read immediately before the coming into force of <i>(amendment)</i> section 7 (23, pp. 20-21).</p>
19 (2) When alterations necessary for adaptation to contrivance					
19 (3) Contrivance not included					
19 (4) Manuscript Arrangements					

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
19 (5) <i>Rates of Royalties</i>	That the royalty rate payable under a compulsory licence be fixed at a percentage of the retail selling price... That the royalty rate be regularly reassessed and revised. This task could be the responsibility of the Copyright Tribunal (p. 103).	...	...	...	...
9 (6) <i>Apportionment of royalties when several owners</i>	That, where two or more works are reproduced on the same sound recordings, and where the copyright owners are different persons, the royalty should be apportioned among the different owners on the basis of the ratio of the duration of each work to the total duration of the sound recording (p. 104).	...	...	...	...
19 (7) <i>When owner deemed to consent to making of contrivances</i>	That the inquiry in s 19(7) be retained... That the inquiry be made in the form presently designated in Rules 24 to 27, with the additional requirement that the copyright owner be informed of the 14 day answer period as well as of the presumption of consent which arises if he fails to answer within the time period. That the Act specify that such presumption is only a presumption that consent was given to make a previous recording... That the Act also specify that an inquiry under this section does not, in itself, constitute a notice of intention to make (pp. 98-99).	...	...	...	...
19 (8) <i>Regulations and notices by Governor in Council</i>	That the substance of present s. 19(8) be retained in any new Act (p. 105).	...	...	...	...
19 (9) <i>Provisions as to musical works heretofore published</i>	That the necessary transitional provisions be incorporated in any new Act (p. 231).	...	...	...	...
19 (10) <i>Copyright deemed to exist at date of making original plate</i>	...	...	...	...	...

CIVIL REMEDIES

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED BILL C-20 May 27, 1987
CIVIL REMEDIES 20 (1) Civil Remedies General	<p>... ... That the principles in s 20(1) also be maintained in any new Act, specifically: any person deriving an interest in a copyright is entitled, to the extent of that interest, to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right, insofar as these remedies are consistent with other provisions of the Copyright Act... That it not be a defence to an action for copyright infringement for a person to tender, after the fact, licence fees which, according to the licence, could only have been paid before a use which was otherwise prohibited (p. 194).</p> <p>That a right to a declaratory judgement be introduced as an addition to the remedies presently provided in s 20(1) (p. 195).</p> <p>That a statutory right of discovery be included in any new Act, whereby a copyright owner may, by court order, require anyone to disclose whether that person has or has had possession, for commercial purposes, of a copy of any protected subject matter, and if so, to disclose from whom such copy was acquired (p. 194).</p> <p>That the possibility of a broad injunction covering many works or classes of works not be specifically recognized in the new Act. That the court have the discretion to order the suspension of any manufacture or public performance, in progress or announced, which constitutes an infringement or an act which the court considers manifestly preparatory to infringement (p. 194).</p> <p>That remedies for infringement of moral rights be the same as those granted for the protection of pecuniary rights, including injunction and damages (p. 59).</p>	<p>... ... Individual copyright owners, exclusive licensees and copyright societies will be entitled to sue and obtain injunctions if either individual works or a repertoire suffer infringement (p. 70).</p> <p>... ... The courts' power to render declaratory judgements and grant exemplary damages will also be made explicit (p. 70).</p> <p>... ... The courts will also retain the authority to grant injunctions. This injunctive power is very broad and elastic. Injunctions can be mandatory or prohibitive in nature; they can be granted on very short notice, and used to prevent infringements that otherwise appear to be imminent (p. 69).</p>	<p>... ... The definition of what constitutes copyright infringement should be reviewed (132, p.98). The existing system of civil remedies should be used as the basis for revision (133, p.98). Study should be made of the feasibility of extending pre-judgement procedures presently available only in one or the other of Canada's legal systems, to both systems (137, p.98).</p>	<p>... ... The government agrees with these recommendations in principle (132, 133, 137, p.18).</p>	<p>... ... Transitional Restriction A remedy referred to in subsection 20 (1.1) of the <i>Copyright Act</i>, as enacted by section 8, may only be obtained where the infringement of the moral rights of the author occurs after the coming into force of section 8 (21(2), p.20).</p>
Declaratory Judgement					
Discovery					
Injunctions					
Moral Rights			<p>All remedies for infringement of an economic right should be available for infringement of a moral right (3, p.8)</p>	<p>The government agrees with this recommendation in principle (3, p. 2).</p>	<p>Section 20 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection: (1.1) In any proceedings for an infringement of the moral rights of an author, the author is entitled to all such remedies that under this Act may be</p>

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED BILL C-20 May 27, 1987
20 (1) (cont'd) <i>Recordings</i>	That any new Act provide specific remedies to ensure compliance with formalities... That, for the purposes of remedies, the formalities of the compulsory licence be considered conditions of that licence... That, where the conditions (including the formalities) of the licence are met by the manufacturer, but where he does not pay royalties in accordance with the regulations, the owner of the infringed copyright be permitted to obtain such payment against the manufacturer's bond, whose licence then becomes suspended with respect to further manufacturing and distribution of the infringed work... That the regulations specify that all other copyright owners whose works are being mechanically reproduced by the infringing manufacturer may request suspension of operating licences in respect of their own works, if the manufacturer does not maintain the full value of his bond (p. 105).	...	...	...	granted for an infringement of copyright (8, p. 4-5). ---
20 (2) Costs 20 (3) <i>Presumptions as to copyright and ownership</i>	... That the present rebuttable presumption in s 20(3)(a) concerning the existence of copyright be retained in any new Act: where the existence of copyright, or title thereof, is put in issue, the work is presumed to be in copyright. Similarly, that the present rebuttable presumption in s 20(3)(c) concerning authorship be retained in any new Act: where the work bears a name purporting to be that of the author, the person whose name is indicated shall be presumed to be the author of the work. That there be a rebuttable presumption of copyright ownership in favour of the plaintiff, rather than in favour of the author. That, in order to assist in proving ownership, in the absence of a registration system, there be a statutory right to enter assignment documents as evidence as well as a <i>prima facie</i> presumption that such documents reflect the truth of their contents (pp. 182-183).	In copyright proceedings, a work will be presumed to be in copyright and the plaintiff will be presumed to have the right to sue, unless prior to trial, opposing parties obtain leave to contest the issue. ... The new Act will provide that the person whose name appears on the face of a copyright work is presumed to be the author in the absence of proof to the contrary. The presumption will apply to authors, publishers or plaintiffs claiming under them (p. 70). The evidentiary advantages that might be associated with registration could be achieved at no cost, through statutory presumptions favouring the plaintiff, particularly with respect to proof of ownership. The new Act will include by copyright and that in court proceedings the plaintiff is the owner of the copyright (p. 73).	The legal effect of a certificate of registration should be to establish two rebuttable presumptions: that copyright subsists in the work and that the person named as owner on the certificate of registration is the owner of the copyright in the work (131, p.96).	The government agrees with the recommendations in principle (131, 17). ---	---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED BILL C-20 May 27, 1987
20.(4) Assessment of damages Computer Programs in Machine-Readable Form	---	<p>---</p> <p>Persons infringing a machine-readable program will be liable only for the remedies for infringement of computer program copyright regardless of whether the computer program copyright is still owned by the owner of the copyright in the underlying human-readable program (p. 83).</p> <p>Direct infringers will continue to be liable for actual damages caused, regardless of their intent or knowledge. Indirect infringers will be liable for actual damages when the plaintiff can show that a reasonably knowledgeable person in the trade would have suspected that the goods in question were made or otherwise obtained in violation of the rights of a copyright owner or those claiming on the owner's behalf (pp. 68-69).</p>	---	---	---
Exemplary Damages	<p>That, in assessing damages, the court be directed to take into account the following criteria:</p> <p>a) the actual damages suffered by the plaintiff;</p> <p>b) the benefits which might have accrued to the infringer. In this respect, the court may order an account of profits;</p> <p>c) the flagrancy of the infringement, including repeated infringements of a related type where the defence lacks merit, or where prelitigation conduct was uncooperative, the actual reasonable costs of investigation, preparation and litigation;</p> <p>e) the need for deterrence and likelihood of a deterrent effect;</p> <p>f) such further criteria as shall be determined by regulation from time to time (p. 194).</p>	<p>The courts' power to render declaratory judgements and grant exemplary damages will also be made explicit. To assist the courts in deciding whether to impose exemplary damages against deliberate infringers, the new Act will set forth a list of factors to be taken into account.</p> <p>The list itself will be exemplary and not exhaustive; it will include the following:</p> <ul style="list-style-type: none"> - the actual damages suffered, - the benefits enjoyed by the defendant, - the flagrancy of the infringement, - the need for deterrence, - the value to the defendant or others of the material taken (p. 70). 	---	---	---
Indirect Infringement	---	In this case the method of calculating statutory compensation will yield a precise amount suitable for immediate judgement. The purpose of this approach is to avoid, where possible, the delay and expense of an assessment of compensation.	---	---	---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED BILL C-20 May 27, 1987
20. (4) (cont'd)		<p>The sum could be calculated on the basis of the sale price of the articles involved, and would be close to a typical gross profit margin to avoid excessive risk to dealing in copyright material. The amount of damages will be reduced if the defendant cooperates in giving the source of the goods (p. 68).</p> <p>In indirect infringement proceedings not involving trade in infringing articles, a copyright owner will be entitled to compensation determined by calculating what a willing buyer would pay a willing copyright owner for use of the copyright material. This compensation is a reasonable royalty and a form of statutory damage or compensation (p. 69).</p>			
<i>Moral Rights</i>	<p>That infringement of a moral right give rise to all remedies such as injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of any other right (p. 195).</p>	---	All remedies for infringement of an economic right should be available for infringement of a moral right (3, p. 8).	The government agrees in principle with the recommendation (3, p. 2).	---
20.(5) <i>Protection of separate rights</i>	<p>That the principles in s 20(5) be maintained in any new Act, specifically: the author or owner of any copyright or any person or persons deriving any right, title or interest by assignment or grant in writing from any author or other owner as aforesaid, may each, individually for himself, in his own name as party to a suit, action, or proceeding, protect and enforce such rights as he may hold (p. 193).</p>	Individual copyright owners, exclusive licensees and copyright societies will be entitled to sue and obtain injunctions if either individual works or a repertoire suffer infringement (p. 70).	---	---	---
20 (6) Concurrent jurisdiction of Exchequer Court	---	---	---	---	---
21. <i>Ownership of copies plates, etc.</i>	<p>That a person, whether innocent or otherwise, be liable to deliver up infringing plates on notice, without compensation, or for damages if that person retains them. That the guilty infringer also be liable to deliver up infringing copies on notice, without compensation, or for damages if he retains them.</p> <p>That, where the defendant is "innocent", the copyright owner be given the option of acquiring the infringing</p>	<p>Copyright owners will have an absolute right to seize or obtain the destruction of infringing plates or masters. They will also be allowed to seize and dispose of other infringing articles, subject to the rights of nonderelictate infringers to apply for an accounting of proceeds from the disposal of such articles, or for directions as to their disposal.</p> <p>The court's power on such an application will be discretionary. They will include the power to order the return of infringing</p>	---	---	---

THE ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED BILL C-20 May 27, 1987
21. (cont'd)	copies at cost, or of leaving them to be disposed of by the defendant, in which latter event the defendant would have to account to the copyright owner for the profits (pp. 194-195).	ing articles to non-deliberate infringers (upon payment of compensation) where justified by undue hardship to the defendant. In addition, the courts will be able to order a defendant to arrange the recall of goods (p. 69).			
22. <i>Injunction only remedy when defendant not aware of copyright</i>	That "innocence" be a defence only with regard to indirect infringement. That, in any new Act, "innocence" not be interpreted as meaning ignorance of the existence of copyright but only as not knowing that what was done constituted an infringement, or not having reasonable grounds for knowing that it would likely infringe. That, where "innocence" is established, damages not be recoverable, but that all other remedies be available (p. 183).	It is proposed to remove the defense of innocence for people dealing in or importing infringing material. Strict liability will apply to all persons who interfere with the exclusive rights of the copyright owner and to all persons who deal in or import infringing works subject to specific limitations (p. 67).			
23 (1) <i>No injunction in case of a building</i>	That an injunction not be available where infringement occurs due to the construction or demolition of a building (p. 194).				
23 (2) Penalties not to apply					
24. <i>Prescription of action</i>	That the present limitation period of three years be maintained in any new Act (p. 195).				<p><i>Time limit for actions</i></p> <p>Section 24 of the said Act is repealed and the following substituted therefor:</p> <p>An action in respect of infringement shall not be commenced after the expiration of three years next after the infringement (9, p. 5).</p>

SUMMARY REMEDIES & IMPORTATION OF COPIES

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
SUMMARY REMEDIES 25 (1) Offences General	... ... That no summary remedies be provided in any new Act (p. 187). That no statutory damages be provided in any new Act (p. 194).	... ... An indictable offense punishable by a fine, a jail sentence, or both, will be created to deal with serious commercial infringements that include the following ingredients: - deliberate perpetration; - commission for commercial benefit or by way of trade; - production, distribution, rental or sale of goods; - without colour of right; - either a potential or actual benefit to the perpetrator exceeding \$5,000 or commission of the act knowing that it may prejudicially affect in a serious way any person's copyright. The maximum for such offenses will be from two to five years imprisonment in addition to or in lieu of the fine... the penalties will adequately reflect today's economic circumstances. The maximum penalty for these offenses will be a multiple value of the gross sales, the rental income or that remaining inventory of the infringing material, or a combination of these. The maximum fine for performances will be a multiple of the proceeds of any sale of tickets for the performance. If the values cannot be estimated, the maximum fine will be \$25,000 (p. 71).	... ... A system of statutory damages should be introduced (134, p.98). The criminal offenses under the existing Act should be retained and the monetary penalties increased to one million dollars (136, p.98).	... ... The government agrees with the recommendation in principle (134, p.18). The offenses and penalties mentioned in recommendation 136 may be structured so as to treat minor infringements differently from major ones (136, p.18).	... ... <i>Offences (Generally)</i> Subsection 25(1) ... of the said Act (is) repealed and the following substituted therefor: <u>Every person who knowingly</u> (a) makes for sale or hire any infringing copy of a work in which copyright subsists; (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work, (c) distributes infringing copies of any such work either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, (d) by way of trade exhibits in public any infringing copy of any such work, or (e) imports for sale or hire into Canada any infringing copy of any such work is guilty of an offence and is liable (f) on summary conviction, to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months, or to both, or (g) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both (10, p. 5).
Computer Programs in Machine-Readable Form	... ...	It will be an offense (punishable by fine) to intentionally remove, alter, or obscure a computer program copyright notice, required by the Act, or to add an inaccurate computer program copyright notice for purposes of commercial profit or private financial gain (p. 84).			
Performances	... ...	In view of the problems identified it has been decided that the unauthorized recording of performances for commercial gain or the use of such unauthorized recordings for that purpose will be made an offense (p. 12).			

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
25.(2) Possession of plates for infringement					<p><i>Possession and performance offences</i> Subsection 25(2) ... of the said Act (is) repeated and the following substituted therefor:</p> <p>Every person who knowingly</p> <p>(a) makes or possesses any plate for the purpose of making infringing copies of any work in which copyright subsists, or</p> <p>(b) for private profit causes any such work to be performed in public without the consent of the owner of the copyright</p> <p>is guilty of an offence and is liable</p> <p>(c) on summary conviction, to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months, or to both, or</p> <p>(d) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years, or to both (10, pp. 5-6).</p>
25 (3) Power of court to deal with copies or plates	---	---	---	---	---
26 (1) Infringement in case of dramatic operatic, or musical work	---	<p>The penalties will adequately reflect today's economic circumstances. The maximum fine for performances will be a multiple of the proceeds of any sale of tickets for the performance. If the value cannot be estimated, the maximum fine will be \$25,000 (p. 71).</p>	---	---	---
26 (2) Change or suppression of title or author's name	<p>That any person who distributes a protected work without indicating the name of the author be obliged where possible to disclose the identity of the author by suitable means related to the use of the work (e.g. broadcasting, insertions of <i>errata</i>, or communications in the media) (p. 195).</p>	---			---
IMPORTATION OF COPIES					
27. Importation of certain copyright works prohibited	<p>That sections 27 and 28 be repealed (p. 203).</p>	<p>Books, records, the musical works contained in the records and cinematographic works will be granted import protection under the new Copyright Act. The Governor in Council will be given the necessary power to add, from time to</p>	<p>The protection afforded by Schedule C of the Customs Tariff should be retained (135, p.98).</p>	<p>The government agrees with the recommendation in principle. The protection mechanism mentioned in recommendation 135, however, will be developed at a later date (135, p.18).</p>	---

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
27. (cont'd)		time, by regulation other types of cultural works to the list of those protected. The onus of pursuing infringers in this instance should properly lie with the copyright owner... For these reasons, section 27 will be repealed (p. 25).			
28 (1) No importation where right or licence to re-produce in Canada granted	That sections 27 and 28 be repealed (p. 203).	Subsection 28(3)(a)(b) and (c), which allow importation of copies of works ... will be retained. The remainder of section 28 will be repealed (p. 25).	The protection afforded by Schedule C of the Customs Tariff should be retained (135, p. 98).	The government agrees with the recommendation in principle. The protection mechanism mentioned in recommendation 135, however, will be developed at a later date (135, p. 18).	---
28 (2) Notice required of intention to import	---	Subsection 28(3)(a)(b) and (c), which allow importation of copies of works ... will be retained. The remainder of section 28 will be repealed (p. 25).		---	---
28 (3) Exceptions	---	Subsection 28(3)(a)(b) and (c), which allow importation of copies of works ... will be retained. The remainder of section 28 will be repealed (p. 25). An exception (to strict liability) would be the case where authorized copies are imported. As opposed to a situation where the copies were illegally made in a foreign country, the importer would not have the right to claim compensation against a foreign party in its jurisdiction. Therefore, equity demands that importers of authorized copies not be liable unless they know the goods infringe in Canada. Finally, to avoid interfering too much in trade of copyright articles under a system of strict liability, immunity will apply to person's who innocently acquire articles for their own use (p. 68).		---	---
28 (4) Application of provisions regarding importation	---	Subsection 28(3)(a)(b) and (c), which allow importation of copies of works ... will be retained. The remainder of section 28 will be repealed (p. 25).		---	---

**ADMINISTRATION, REGISTRATION, FEES,
CLERICAL ERRORS NOT TO INVALIDATE,
RULES AND REGULATIONS, GENERAL
AND CONVENTION OF BERNE**

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
ADMINISTRATION 29, 30, 31, 32, 33, 34, 35, 36	...	...	...	...	...
REGISTRATION 37, 38, 39, 40	That the present voluntary registration system not be retained in any new Act (p. 209).	The evidentiary advantages that might be associated with registration could be achieved at no cost, through statutory presumptions favouring the plaintiff, particularly with respect to proof of ownership. The new Act will include presumptions that the work is protected by copyright and that in court proceedings the plaintiff is the owner of the copyright (p. 73).	A voluntary system of copyright registration should be maintained (127, p.95). In an application for copyright registration, more information, supported by an affidavit, should be provided to the Registrar as to the identification and nature of the work and as to how the applicant derived title (128, p.95).	The government agrees with the recommendations in principle (127, 128, p.17).	...
FEES 41, 42	That the present voluntary registration system not be retained in any new Act (p. 209).	The decision has been made to abolish voluntary copyright registration (p. 74).	Requirements for registration of a work consisting of multiple parts should be clarified (130, p.95). The legal effect of a certificate of registration should be to establish two rebuttable presumptions: that copyright subsists in the work and that the person named as owner on the certificate of registration is the owner of the copyright in the work (131, p.96).	The government agrees with the recommendations in principle (130, 131, p.17).	Reference The French version of the said Act is further amended by substituting the word "droit" for the word "l'auteur", with such grammatical modifications as the circumstances require, wherever the latter word occurs in the following provision: (d) subsection 42(2) (15, p.17).
CLERICAL ERRORS NOT TO INVALIDATE 43	That the present voluntary registration system not be retained in any new Act (p. 209).	The decision has been made to abolish voluntary copyright registration (p. 74).	Fees for registration should be set at a level which will ensure that the system is administered on a cost-recovery basis (129, p.95).	The government agrees with the recommendations in principle (129, p.17).	Coming into Force <i>Coming into force</i> (Amendment) Section 15 shall come into force on a day to be fixed by proclamation (26, p.21).
RULES AND REGULATIONS 44	...	...	A voluntary system of copyright registration should be maintained (127, p.95).	The government agrees with the recommendations in principle (127, p.17).	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
<p>GENERAL 45. No copyright unless under this Act</p> <p>46. (1) <i>Application of Act to designs</i></p>	<p>---</p> <p>---</p> <p>That Canada not accede to the (<i>Vienna</i>) Agreement, pending decisions reached with respect to industrial design legislation (p.229).</p>	<p>---</p> <p>---</p> <p>The Department of Consumer and Corporate Affairs is in the process of drawing up recommendations for the revision of the Industrial Design Act. At that time, the Department will address the relationship between the Copyright Act and the Industrial Design Act and will make appropriate recommendations for delineating the boundary between these two forms of protection. In the interim, the present section 46 will be retained (p. 15).</p>	<p>---</p> <p>---</p> <p>The government accepts these recommendations (32, 33, p.6).</p>	<p>---</p> <p>---</p> <p>Section 46 of the said Act is repealed and the following substituted therefor:</p>	
<p>46 (2) Rules for determining use of design</p>	---	---	---	---	---
<p>46. (1) <i>Interpretation</i> "article"</p>	---	---	---	---	<p>In this section and section 46.1, "article" means any thing that is made by hand, tool or machine;</p>
<p>"design"</p>	---	---	---	---	<p>"design" means features of shape, configuration, pattern or ornament and any combination of those features that, in a finished article, appeal to and are judged solely by the eye;</p>
<p>"useful article"</p>	---	---	---	---	<p>"useful article" means an article that has a utilitarian function and includes a model of any such article;</p>
<p>"utilitarian function"</p>	---	---	---	---	<p>"utilitarian function", in respect of an article, means a function other than merely serving as a substrate or carrier for artistic or literary matter (11, p.6).</p>
<p>46.(2) <i>Non-infringement re certain designs</i></p>	---				<p>Transitional <i>Infringements before coming into force</i> Subsection 46 (1) .. of the <i>Copyright Act</i>, as enacted by (<i>amendment</i>) section 11, applies in respect of any alleged infringement of copyright occurring prior to, on or after the day on which (<i>amendment</i>) section 11 comes into force (24, p. 21).</p> <p>Where copyright subsists in a design applied to a useful article or in a work from which the design is derived and, by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere,</p>

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
46.(2) (cont'd)	---	---	...		<p>(a) the article is reproduced in a quantity of more than fifty;</p> <p>(b) where, in respect of a non-hand-made article that has a repeated pattern applied thereto, the article is severed into lengths or pieces suitable for textile piece goods, a surface covering or making wearing apparel, or</p> <p>(c) where the article is a plate, engraving or cast, the article is used for producing more than fifty useful articles,</p> <p>it shall not thereafter be an infringement of the copyright for anyone</p> <p>(d) to reproduce the design of the article or a design not differing substantially from the design of the article by</p> <p>(i) making the article, or</p> <p>(ii) making a drawing or other reproduction in any material form of the article, or</p> <p>(e) to do with an article, drawing or reproduction that is made as described in paragraph (d) anything that the owner of the copyright has the sole right to do with the design or work in which the copyright subsists (11, pp. 6-7).</p> <p>Subsection (2) does not apply in respect of any copyright in an artistic work that is used as or for</p> <p>(a) a card, poster, game board, calendar, stamp, transfer or any other printed matter primarily of an artistic or literary character;</p> <p>(b) a trademark or label;</p> <p>(c) an artistic work applied to the covering of or container for an included article or product;</p> <p>(d) an architectural work of art; or</p> <p>(e) such other work or article as may be prescribed by regulations of the Governor in Council (11, p.7).</p> <p>The following acts do not constitute an infringement of copyright in a work:</p> <p>(a) applying to a useful article features that are dictated solely by a utilitarian function of the article;</p>
46. (3) Exceptions	---	---	...		
46.1 Non-infringement re useful article features					

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
46.1 (cont'd)					<p>(b) by reference solely to a useful article, making a drawing or other reproduction in any material form of any features of the article that are dictated solely by a utilitarian function of the article;</p> <p>(c) doing with a useful article having only features described in paragraph (a) or doing with a drawing or reproduction that is made as described in paragraph (b) anything that the owner of the copyright has the sole right to do with the work; or</p> <p>(d) using any method or principle of manufacture or construction (11, pp. 7-8).</p> <p>Transitional <i>Infringements before coming into force</i> ...section 46.1 of the <i>Copyright Act</i>, as enacted by <i>(amendment)</i> section 11, applies in respect of any alleged infringement of copyright occurring prior to, on or after the day on which <i>(amendment)</i> section 11 comes into force (24, p.21).</p>
CONVENTION OF BERNE 47. Adherence to Convention of Berne	<p>...</p> <p>That Canada remain at the present level of international participation in respect of the Berne Convention and the Universal Copyright Convention (p. 236).</p>	<p>...</p> <p>...</p>	<p>...</p> <p>...</p>	<p>...</p> <p>...</p>	<p>---</p> <p>---</p>

PERFORMING RIGHTS SOCIETIES & CONVENTION OF ROME

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
PERFORMING RIGHTS SOCIETIES 48 (1) <i>Performing rights</i>	<p>... That any new Copyright Act allow, as it does presently and encourage the formation of collectives to protect authors' and publishers' interests, under the supervision of a government tribunal (p. 165).</p> <p>... That the collective exercise of copyright be encouraged as a means of satisfying the needs of both authors and users. That, if any collectives are formed to exercise any right given under a new Act, their regulation, control and review be the responsibility of the appropriate government agency designated (p. 214).</p>	<p>... It is envisaged that the Copyright Act would permit the wider use of copyright societies... These societies would arise from private initiatives when prompted by market forces... To protect the public from possible excesses by copyright societies, they would be subject to the control of the revised Copyright Appeal Board (p. 62). To meet the concerns of copyright owners that their right to be protected from potential abuse by the societies, the new Act would provide that: the Governor in Council may establish a standard licensing agreement for the licensing of rights from a copyright owner to a society. This provision will ensure that copyright owners are not forced to enter into contractual commitments of an unnecessarily long duration or to assign rights in bulk to a society. A copyright owner would be allowed to grant one or more rights to a society or retain certain rights; a revised Copyright Appeal Board would ensure that the Board of Directors of societies be elected democratically by the members of the societies. (pp. 62-63).</p>	<p>... The collective exercise of copyright should be encouraged (110, p. 88).</p> <p>... Membership in collectives should continue to be voluntary (112, p. 88). Creators should continue to be allowed to grant exclusive licences to collectives (113, p. 88).</p>	<p>... The government agrees with this recommendation in principle (110, p. 16).</p> <p>... The government agrees with these recommendations in principle (112, 113, p. 16).</p>	<p>... The heading preceding section 48 and section 48 ... of the said Act are repealed and the following substituted therefor: (12, p. 8).</p>
48 (2) Tariffs of fees charges or royalties to be filed annually
48 (3) Enforcement of remedies where non- compliance
COPYRIGHT BOARD 48. (1) <i>Establishment</i>	<p>...</p>	<p>...</p>	<p>...</p>	<p>...</p>	<p>... There is hereby established a Board to be known as the Copyright Board consisting of not more than five members, including a chairman and a vice-chairman, to be appointed by the Governor in Council (12, p. 8).</p>
48. (2) <i>Service</i>	<p>... The chairman and vice-chairman shall be appointed to serve full-time and the other members of the Board shall be appointed to serve either full-time or part-time (12, p. 8).</p>

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
48. (3) <i>Chairman</i>	---	---	---	---	The chairman must be a judge, either sitting or retired, of a superior, county or district court (12, p. 8).
48. (4) <i>Tenure</i>	---	---	---	---	Each member of the Board shall hold office during good behaviour for a term not exceeding five years, but may be removed at any time by the Governor in Council for cause (12, p. 8).
48. (5) <i>Reappointment</i>	---	---	---	---	A member of the Board is eligible to be reappointed once only (12, p. 8).
48. (6) <i>Prohibition</i>	---	---	---	---	A member of the Board shall not be employed in the Public Service within the meaning of the <i>Public Service Staff Relations Act</i> during the member's term of office (12, p. 8).
48. (7) <i>Deemed public service employees</i>	---	---	---	---	A member of the Board, other than the chairman, shall be deemed to be employed in <ul style="list-style-type: none"> (a) the Public Service for the purposes of the <i>Public Service Superannuation Act</i>; and (b) the public service of Canada for the purposes of any regulations made pursuant to section 7.7 of the <i>Aeronautics Act</i> (12, p. 8).
48.1 (1) <i>Duties of the chairman</i>	---	---	---	---	The chairman shall direct the work of the Board and apportion its work among the members of the Board (12, p. 9).
48.1 (2) <i>Absence or incapacity of chairman</i>	---	---	---	---	If the chairman is absent or incapacitated or if the office of chairman is vacant, the vice-chairman has all the powers and functions of the chairman during the absence, incapacity or vacancy (12, p. 9).
48.1 (3) <i>Duties of the vice-chairman</i>	---	---	---	---	The vice-chairman is the chief executive officer of the Board and has supervision over and direction of the Board and its staff (12, p. 9).
48.2 (1) <i>Remuneration and expenses</i>	---	---	---	---	The members of the Board, other than the chairman, shall be paid such remuneration as may be fixed by the Governor in Council and are entitled to be paid reasonable travel and living expenses incurred ... in the course of their duties under this Act while absent from their ordinary place of residence (12, p. 9).

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
48.2 (2) Expenses of chairman	---	---	---	---	The chairman is entitled to be paid such reasonable travel and other expenses as a judge is entitled to receive in accordance with the <i>Judges Act</i> (12, p. 9).
48.3 (1) Conflict of interest prohibited	---	---	---	---	A member of the Board shall not, directly or indirectly, engage in any activity, have any interest in a business or accept or engage in any office or employment that is inconsistent with the member's duties (12, p. 9).
48.3 (2) Termination of conflict of interest	---	---	---	---	Where a member of the Board becomes aware that he is in a conflict of interest contrary to subsection (1), the member shall, within one hundred and twenty days, terminate the conflict or resign (12, p. 9).
48.4 (1) Staff	---	---	---	---	Such officers and employees as are necessary for the proper conduct of the work of the Board shall be appointed in accordance with the <i>Public Service Employment Act</i> (12, p. 9).
48.4 (2) Idem	---	---	---	---	The officers and employees referred to in subsection (1) shall be deemed to be employed in the Public Service for the purposes of the <i>Public Service Superannuation Act</i> (12, p. 9).
48.4 (3) Technical assistance	---	---	---	---	The Board may engage on a temporary basis the services of persons having technical or specialized knowledge to advise and assist in the performance of its duties and the Board may, in accordance with Treasury Board directives, fix and pay the remuneration and expenses of those persons (12, p. 10).
48.5 (1) Extension	---	---	---	---	A member of the Board whose term expires may conclude the matters that the member has begun to consider (12, p. 10).
48.5 (2) Decisions	---	---	---	---	Matters before the Board shall be decided by a majority of the members of the Board and the presiding member shall have a second vote in the case of a tie (12, p. 10).
48.6 (1) Regulations	---	---	---	---	The Board may, with the approval of the Governor in Council, make regulations not inconsistent with this Act governing

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	ROPOSED AMENDMENTS BILL C-20 May 27, 1987
48.6(1) (cont'd)	---	---	---	---	(a) the practice and procedure in respect of the Board's hearings; (b) the time and manner in which applications and notices must be made or given; (c) the establishment of forms for the making or giving of applications and notices; and (d) for carrying out the work of the Board, the management of its internal affairs and the duties of its officers and employees (12, p. 10).
48.6(2) Publication of proposed regulations	---	---	---	---	A copy of each regulation that the Board proposes to make under subsection (1) shall be published in the <i>Canada Gazette</i> at least sixty days before the proposed effective date thereof and a reasonable opportunity shall be given to interested persons to make representations with respect thereto (12, p. 10).
48.6(3) Exception	---	---	---	---	No proposed regulation that has been published pursuant to subsection (2) need again be published under that subsection, whether or not it has been altered as a result of representations made with respect thereto (12, p. 10).
48.7(1) General powers, etc.	---	---	---	---	The Board has, with respect to the attendance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of its decisions and other matters necessary or proper for the due exercise of its jurisdiction, all such powers, rights and privileges as are vested in a superior court of record (12, pp. 10-11).
48.7(2) Enforcement of decisions	---	---	---	---	Any decision of the Board may, for the purposes of its enforcement, be made an order of the Federal Court or of any superior court and is enforceable in the same manner as an order of the court (12, p. 11).
48.7(3) Procedure	---	---	---	---	To make a decision of the Board an order of a court, the usual practice and procedure of the court in such matters may be followed or a certified copy of the decision may be filed with the registrar of the court and thereupon the decision becomes an order of the court (12, p. 11).

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
48.8 <i>Studies</i>	---	---	---	---	The Board shall conduct such studies with respect to the exercise of its powers as are requested by the Minister (12, p. 11).
48.9 (1) <i>Report</i>	---	---	The Board shall, not later than August 31 in each year, submit an annual report to the Governor in Council through the Minister on the Board's activities for the preceding year describing briefly the applications made to the Board, the Board's decisions and any other matter that the Board considers relevant (12, p. 11).
48.9 (2) <i>Tabling</i>	---	---	---	---	The Minister shall cause a copy of each annual report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the Minister receives the report (12, p. 11).
49 (1) <i>Statements to be published</i>	---	Given the administrative costs and difficulties of publishing those proposals in local newspapers they will continue to be published in the Canada Gazette. In addition, other means of making known such tariffs may be established by regulation (pp. 64-65).	---	---	The heading preceding section ... 49 of the said Act (is) repealed and the following substituted therefor (12, p. 8):
49 (2) <i>Statements to be referred to the Board</i>	---	.	---	---	
COLLECTIVE ADMINISTRATION OF PERFORMING RIGHTS 49. (1) <i>Performing rights</i>	---	---	---	---	Each society, association or corporation that carries on the business of granting licences for the performance in Canada of dramatico-musical or musical works shall, from time to time, file at the Copyright Office lists of all dramatico-musical and musical works in current use in respect of which the society, association or corporation has authority to grant performing licences (12, p. 11).
49. (2) <i>Filing of statements of royalties</i>	---	.	.	---	Each society, association or corporation referred to in subsection (1) shall, on or before September 1 immediately following the date when its last statement approved pursuant to subsection 49.2(1) expires, file with the Board a statement in both official languages of all royalties that the society, association or corporation proposes to collect for the grant of

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
49.(2) (cont'd)	---	---	---	---	licences for the performance of its works in Canada (12, pp. 11-12).
49.(3) Effective period of statements	---	---	---	---	A statement of proposed royalties shall provide that the royalties are to be effective for a period of at least one year ending on December 31 (12, p.12).
49.(4) Prohibition of enforcement	---	---	---	---	Where a statement of proposed royalties is not filed with respect to a work mentioned in subsection (1), no action shall be commenced for infringement of the copyright in the work without the written consent of the Minister (12, p. 12)
49.1 (1) Publication of statements	---	---	---	---	As soon as practicable after the receipt of a statement filed pursuant to subsection 49(2), the Board shall publish it in the <i>Canada Gazette</i> and shall give notice that any prospective user may file a written objection to the statement, which objection shall be filed with the Board within twenty-eight days after publication of the statement (12, p. 12).
49.1(2) Board to consider statements and objections	---	---	---	---	The Board shall, as soon as practicable, consider a statement and any objections thereto referred to in subsection (1) or raised by the Board and (a) send to the society, association or corporation concerned a copy of the objections so as to permit it to reply; and (b) send to the prospective users who filed the objections a copy of any reply thereto (12, p. 12).
49.2(1) Certification with alterations	---	---	---	---	On the conclusion of the Board's consideration of a statement, any objections to it and any reply to the objections, the Board shall (a) certify the statement as approved, with or without such alterations to the royalties and related terms and conditions specified therein as the Board may make; (b) publish the approved statement in the <i>Canada Gazette</i> as soon as practicable; and (c) send a copy of the approved statement, together with reasons for the Board's decision, to the

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
49.2(1) (cont'd)	---	---	---	---	society, association or corporation concerned and to any prospective user who filed an objection (12, pp. 12-13).
49.2(2) Effect of fixing royalties	---	---	---	---	A society, association or corporation may, for the period specified in its approved statement, collect the royalties specified in the statement or, in default of their payment, recover them in a court of competent jurisdiction (12, p. 13).
49.2(3) Right of action barred if royalties tendered or paid	---	---	---	---	No action shall be brought for the infringement of the right to perform a work referred to in subsection 49(1) against a person who has paid or offered to pay the royalties specified in an approved statement (12, p. 13).
50(1) Board constituted	That a Copyright Tribunal be created to replace the present Copyright Appeal Board (p. 222).	The existing Board could ... be replaced by a revised Board, which would have an expanded role, including the power to approve rate structures (p. 63).	The Copyright Appeal Board should be re-named the Copyright Board (114, p.89). The Copyright Appeal Board should be vested with the authority to regulate all collectives. (111, p.88). The Board should not be granted powers to intervene in the administration of collectives (115, p.90). The Board's jurisdiction should be limited to setting rates (117, p.91). Previously approved rates should remain in effect until such time as the Board has approved new rates (120, p.92).	The government generally agrees with the recommendation (114, p.17). The issue raised in recommendation 111, however, will be examined at the same time as recommendations 114 to 126 regarding the Copyright Appeal Board (111, p.16). The government generally agrees with these recommendations. The conditions that will apply to the Board - its jurisdiction, powers, organization and operations - remain, however, to be articulated (115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, p. 17).	Coming into Force (amendment) Section 12... shall come into force on a day to be fixed by proclamation (26, p.21). Subsections 50(1) to (6) of the said Act are repealed (13, p. 13) Transition <i>Continuation in office</i> Notwithstanding any other provision of this Act, the members of the Copyright Appeal Board appointed pursuant to section 50 of the <i>Copyright Act</i> , as it read immediately before the coming into force of (amendment) section 13, continue in office and may continue to perform their duties and exercise their powers to the extent necessary to consider and deal with any application made under section 50 of that Act before the coming into force of (amendment) section 13 (25, p. 21).
50(2) Chairman and members	---	The Board would consist of members appointed by the Governor in Council on a full- or part-time basis depending on the workload. Members could be appointed for a fixed term subject to renewal and could be removed only for cause. Initial terms could be staggered to ensure continuity of membership. The Chairman could be chosen from among the membership by the Governor in Council (p. 64).	The Board should be composed of five permanent members, appointed for a fixed renewable term by the Governor in Council (122, p.93). Members should be removable only for cause (123, p.93). Members should have legal, financial or copyright expertise (124, p.93).	As above	As above

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50 (3) Travelling and living expenses	---	---	---	---	<i>As above</i>
50.(4) Rules and provisions	That the Tribunal be given sufficient discretionary powers to enable it to function properly: to determine and establish its own procedures and the means of exercising its powers; and to ensure that royalties are distributed for the purposes for which they are collected (p. 223).	The Board would be an independent body reporting to Parliament through the Minister responsible for copyright. (p. 64).	The Board should be an independent body reporting to Parliament through the responsible Minister (126, p.93).	<i>As above</i>	<i>As above</i>
50.(5) Aid in advisory capacity	---	The Board .. could have administrative and research staff under its direction (p. 64).	The Board should be supported by its own staff and outside professional assistance as required (125, p.93).	<i>As above</i>	<i>As above</i>
50.(6) Board to consider statements and objections	That the Copyright Tribunal, in addition to the responsibilities already imposed on the Copyright Appeal Board, be responsible: c) regulating the collective exercise of copyright with respect to collectives other than Performing Rights Societies: approving licences, and hearing disputes on contracts, licences and changes in royalty rates(p. 222).	To ensure that their distribution schemes are fair and efficient, the societies would be required to file their distribution and monitoring schemes with a revised Copyright Appeal Board. The Board would, on application of a member of a society, have the authority to review the schemes and veto any schemes deemed unfair (pp.62-63).	The Board's jurisdiction should be limited to hearing evidence only where a proposed tariff is in dispute (116, p.91). The Board should be granted the usual powers of a court of record, including the authority to issue subpoenas and require the production of documents (118, p.92). The Board's decisions should be subject to appeal to the Federal Court on matters of law. (121, p.92)	<i>As above</i>	<i>As above</i>
50.(7) Radio performances in places other than theatres	That the exception now allowed by s 50(7) be deleted (p. 160). That the public performance of copyright material by broadcast receivers or similar devices in an enterprise not employing more than three persons for jukebox performances be exempt from	Once an exercise of rights come within the jurisdiction of the Board, all negotiations between societies and users about the right would fall under the jurisdiction of the Board. This would be purely permissive legislation, however, and creators or other copyright owners would not be required to join a society. All copyright owners who are not members of a society would be free to negotiate with users individually. Similarly, other types of societies could arise outside the jurisdiction of the Board. They would be subject to the general provisions of competition law (pp.63-64). Before reaching final decisions the government is seeking public comment on two issues: Should there be a continuing exemption or other treatment for jukebox performances?	The revised law should not contain a general exception for the public performance of copyright works by means of jukeboxes, radios, television sets and playback machines(43, p.36). The revised law should not contain a general exception from copyright liability for performance of protected	The government accepts these recommendations (43,44, p.7).	Subsection 50(7) of the said Act is repealed and the following substituted therefor: In respect of public performances by means of any radio receiving set or gramophone in any place other than a theatre that is ordinarily and regularly

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50.(7) (cont'd)	paying performing rights fees (p. 161).	- There will be a limited exemption for certain uses which are essentially private or noncommercial in nature, but which may accidentally be public performances. How should that exemption be defined (p. 46)?	works by means of radios, television sets and playback machines that incidentally take place in public (44, p.36). The revised law should not contain an exception for the public performance of sound recordings by means of jukeboxes, radios, television sets and playback machines (68, p.52). The revised law should contain an exception from copyright liability for uses of sound recordings that incidentally take place in public (69, p.52).	The government agrees with these recommendations in principle (68, 69, p.10).	used for entertainments to which an admission charge is made, no fees, charges or royalties shall be collectable from the owner or user of the radio receiving set or gramophone, but the Board shall, so far as possible, provide for the collection in advance from radio broadcasting stations or gramophone manufacturers, as the case may be, of fees, charges and royalties appropriate to the new conditions produced by the provisions of this subsection and shall fix the amount of the same; in so doing, the Board shall take into account all expenses of collection and other outlays, if any, saved or savable by, for or on behalf of the owner of the copyright or performing right concerned or the owner's agents, in consequence of this subsection (13(2), p. 13).
50 (8) Board may make alterations	...	...	...	...	Subsections 50(8) to (10) of the said Act are repealed (13(3), p. 14).
50 (9) Fees, charges and royalties which may be collected General	...	...	...	...	As above
Recordings	That the Copyright Tribunal, in addition to the responsibilities already imposed on the Copyright Appeal Board, be responsible for: a) establishing the rate for mechanical recording royalties; b) fixing those fees required to be paid by cable systems for rediffusion, and establishing the rules governing assessment, collection and distribution of such fees (p. 222).	...	...	...	...
Retransmission	3. Regulation of Rediffusion: a) that, as the granting of the foregoing right will entail determining a basis for and the payment of royalties, appropriate regulatory mechanisms be established. b) that the Copyright Tribunal fix the appropriate fees and establish the necessary safeguards to ensure the equitable assessment, collection and distribution of royalties to Canadians (pp. 143-144).	...	The Copyright Appeal Board should determine the total economic value of all retransmission activities in Canada (103, p.81). The Board should set a tariff based on the evaluation and whatever other criteria that the Board deems relevant but should not consider the number and composition of the signals carried by an individual retransmission system (104, p.82).	The government made no formal response to recommendations 103 and 104. (103, 104, p.15)	...

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50 (9) (cont'd)			<p>In assessing the economic value of retransmission activities, the Copyright Appeal Board should assign a lower value to the retransmission of local signals (105, p.82).</p> <p>Local signals should be defined as those reaching the broadcaster's target market by whatever means (106, p.82). The target market of the broadcaster should be determined by reference to such factors as the content of the programming involved, the marketing activity of the broadcaster, and the origin of the broadcaster's advertising revenues (107, p.83).</p> <p>Retransmission systems should be considered within the scope of a broadcaster's target market irrespective of the broadcaster's success in deriving income from it, as long as the broadcaster's own behaviour demonstrates an intent to benefit from it financially (108, p.83).</p> <p>Small cable systems serving small and isolated communities should be shielded from any material impact arising from the introduction of a retransmission right (109, p.83).</p>	<p>As for the scope, implementation and operation of the <i>(copyright payment)</i> system, when the new legislation is in place, the government intends to proceed as follows:</p> <ol style="list-style-type: none"> 1. Local signals, which remain to be defined, will be excluded from the new <i>(copyright payment)</i> system. 2. The Copyright Appeal Board will study the matter and report to the government on the system to be adopted. 3. The system will be implemented on a date to be set by proclamation. 4. The tariffs set by the Copyright Appeal Board will be subject to a right of review by the Governor in Council (105, 106, 107, 108, 109, p.15). <p>As above</p>	
50 (10) <i>Right of action barred if approved fees, charges or royalties have been tendered or paid</i>	That there be no right of action by a collective against an alleged user of copyright material unless and until the Tribunal has been notified by the collective of its existence (p. 223).	Once rates and reporting requirements were approved by the Board, anyone could use the works in the society's repertoire after paying the approved fee and meeting the approved reporting requirements regardless of whether the user had a contractual relationship with the society. This provision is comparable to section 50(10) of the current Act which covers the performance of musical works (p. 64).	...	...	As above
COLLECTIVE ADMINISTRATION OF COPYRIGHT	...	...	...	...	The said Act is further amended by adding thereto, immediately after section 50 thereof, the following heading and sections:
50.1 <i>Definition of licensing body</i>	...				For the purposes of sections 50.2 to 50.7, "licensing body" means a society, association or corporation that carries on

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50.1 (cont'd)					the business of granting licences giving access to a repertoire of works of more than one author and thereby authorizing the doing, in Canada, of an act mentioned in subsection 3(1) in respect of such works, but does not include (a) a society, association or corporation referred to in subsection 49(1); or (b) a society, association or corporation when it grants a licence for a particular work, whether or not the work is part of a repertoire (14, p.14).
50.2 (1) <i>Application to fix amount of royalty</i>	---	---	---	---	Where a licensing body and any person not otherwise authorized to do an act mentioned in subsection 3(1) in respect of the works included in the licensing body's repertoire are unable to agree on the royalties to be paid for the right to do the act, either of them may, after giving notice to the other, apply to the Board to fix the royalties (14, p.14).
50.2 (2) <i>Fixing royalties</i>	---	---	---	---	The Board may fix the royalties and establish any related terms and conditions in respect of a licence during such period of not less than one year as the Board may specify and, as soon as practicable after rendering its decision, the Board shall send a copy thereof, together with the reasons therefor, to the licensing body and the person concerned (14, p.14).
50.3 (1) <i>Agreement</i>	---	---	---	---	The Board shall not proceed with an application under section 50.2 where the licensing body and the person concerned file with the Board a notice that they have reached an agreement (14, p.14).
50.3 (2) <i>Idem</i>	---	---	---	---	An agreement referred to in subsection (1) is effective during the year following the expiration of the previous agreement, if any, or of the last period specified under subsection 50.2 (2) (14, p.15).
50.4 <i>Effect of Board decision</i>	---		---	---	Where any royalties are fixed for a period pursuant to subsection 50.2 (2), the person concerned may, during the period and on paying or offering to pay the royalties, do the act with respect to

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50.4 (cont'd)	---	---	---	---	which the royalties were fixed and the licensing body may collect the royalties or, in default of their payment, recover them in a court of competent jurisdiction (14, p.15).
50.5 (1) <i>Continuation of rights</i>	---	---	---	---	Where a person is authorized to do an act mentioned in subsection 3(1) pursuant to an agreement with a licensing body or a decision of the Board under subsection 50.2 (2), the person may, subject to the same conditions, continue to do the act after the expiration of the agreement or the period specified in the decision and the licensing body may continue to collect the royalties until another agreement is concluded or the royalties are fixed by the Board (14, p.15).
50.5 (2) <i>Effect of new agreement</i>	---	---	---	---	Where another agreement is concluded, the royalties are, unless the agreement otherwise provides, payable with respect to the period commencing at the expiration of the previous agreement or of the last period specified under subsection 50.2(2) (14, p.15).
50.5 (3) <i>Effect of new Board decision</i>	---	---	---	---	Where the royalties are fixed by the Board under subsection 50.2(2), the royalties are payable with respect to the period commencing at the expiration of the previous agreement or of the last period specified under that subsection (14, p.15).
Examination of Agreements 50.6 (1) <i>Definition of "Director"</i>	---	---	---	---	For the purposes of this section and section 50.7, "Director" means the Director of Investigation and Research appointed under the <i>Competition Act</i> (14, p.15).
50.6 (2) <i>Filing agreement with the Board</i>	---	---	---	---	Where a licensing body concludes an agreement to grant a licence authorizing a person to do an act mentioned in subsection 3(1), the licensing body or the person may file a copy of the agreement with the Board within fifteen days after it is concluded (14, p.15-16).
50.6 (3) <i>Idem</i>	---	---	---	---	Section 32 of the <i>Competition Act</i> does not apply in respect of any royalties or related terms and conditions arising under an agreement filed in accordance with subsection (2) (14, p.16).

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
50.6(4) Access by Director	---	---	---	---	The Director may have access to the copy of an agreement filed in accordance with subsection (2) (14, p.16).
50.6(5) Request for examination	---	---	---	---	Where the Director considers that an agreement filed in accordance with subsection (2) is contrary to the public interest, the Director may, after advising the parties concerned, request the Board to examine the agreement (14, p.16).
50.7(1) Examination and fixing of royalty	---	---	---	---	The Board shall, as soon as practicable, consider a request by the Director to examine an agreement and the Board may, after giving the Director and the parties concerned an opportunity to present their arguments, alter the royalties and any related terms and conditions arising under the agreement and sections 50.4 and 50.5 apply with such modifications as the circumstances require (14, p.16).
50.7(2) Idem	---	---	---	---	As soon as practicable after rendering its decision, the Board shall send a copy thereof, together with the reasons therefor, to the parties concerned and to the Director (14, p.16).
Owners Who Cannot Be Located 50.8(1) Circumstances in which licence may be issued	---	---	---	---	Where, on application to the Board by a person who wishes to obtain a licence to use a published work in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in subsection 3(1) (14, p.16).
50.8(2) Conditions of licence	---	---	---	---	A licence issued under subsection (1) is non-exclusive and is subject to such terms and conditions as the Board may establish (14, p.16).
50.8(3) Payment to owner	---	---	---	---	The owner of a copyright may, not later than five years after the expiration of a licence issued pursuant to subsection (1) in respect to the copyright, collect the royalties fixed in the licence or, in default of their payment, commence an action to recover them in a court of competent jurisdiction (14, p.17).

THE EXISTING ACT	COPYRIGHT IN CANADA 1977	FROM GUTENBURG TO TELIDON 1984	A CHARTER OF RIGHTS FOR CREATORS 1985	GOVERNMENT RESPONSE TO A CHARTER OF RIGHTS FOR CREATORS 1986	PROPOSED AMENDMENTS BILL C-20 May 27, 1987
	...	...	...	...	Coming into Force (Amendment) Sections (13, 14 and 25) shall come into force on a day to be fixed by proclamation (26, p. 21).
CONVENTION OF ROME 51. Adherence to Rome Copyright Convention	That Canada remain at the present level of international participation in respect of the Berne Convention and the Uni- versal Copyright Convention (p. 236).	...	...	...	...

APPENDIX A

RELATED AND CONSEQUENTIAL AMENDMENTS BY ACT

<p>COMPETITION ACT R.S., c. C-23, 1986, c.26, s. 19</p> <p>Section 29 of the <i>Competition Act</i> is repealed and the following substituted therefor:</p> <p><i>Powers of Federal Court where certain rights used to restrain trade</i></p> <p>29. In any case where use has been made of the exclusive rights and privileges conferred by one or more patents for invention or by one or more trade marks or by a copyright so as</p> <p>(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce,</p> <p>(b) to restrain or injure, unduly, trade or commerce in relation to any such article or commodity,</p> <p>(c) to prevent, limit or lessen, unduly, the manufacture or production of any such article or commodity or unreasonably to enhance the price thereof; or</p> <p>(d) to prevent or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity,</p> <p>the Federal Court of Canada, on an information exhibited by the Attorney General of Canada, may, for the purpose of preventing any use in the manner defined above of the exclusive rights and privileges conferred by any patents, trade marks or copyrights relating to or affecting the manufacture, use or sale of such article or commodity, make one or more of the following orders:</p> <p>(e) declaring void, in whole or in part, any agreement, arrangement or licence relating to such use,</p> <p>(f) restraining any person from carrying out or exercising any or all of the terms or provisions of such agreement, arrangement or licence,</p> <p>(g) directing the grant of licences under any such patent or copyright to such persons and on such terms and conditions as the court may deem proper, or, if such grant and other remedies under this section would appear insufficient to prevent such use, revoking such patent,</p> <p>(h) directing that the registration of a trade mark in the register of trade marks be expunged or amended, and</p> <p>(i) directing that such other acts be done or omitted as the Court may deem necessary to prevent any such use,</p> <p>but no order shall be made under this section that is at variance with any treaty, convention, arrangement or engagement with any other country respecting patents, trade marks or copyrights to which Canada is a party (16, pp.17-18).</p>	<p>INDUSTRIAL DESIGN ACT R.S., c. 1-8</p> <p>Section 2 of the <i>Industrial Design Act</i> is repealed and the following substituted therefor:</p> <p><i>Definitions</i></p> <p>2. In this Act,</p> <p>“<i>article</i>”</p> <p>“<i>article</i>” means any thing that is made by hand, tool or machine;</p> <p>“<i>design</i>” or “<i>industrial design</i>”</p> <p>“<i>design</i>” or “<i>industrial design</i>” means features of shape, configuration, pattern or ornament and any combination of those features that, in a finished article, appeal to and are judged solely by the eye;</p> <p>“<i>Minister</i>”</p> <p>“<i>Minister</i>” means such member of the Queen’s Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act;</p> <p>“<i>useful article</i>”</p> <p>“<i>useful article</i>” means an article that has a utilitarian function and includes a model of any such article;</p> <p>“<i>utilitarian function</i>”</p> <p>“<i>utilitarian function</i>”, in respect of an article, means a function other than merely serving as a substrate or carrier for artistic or literary matter (18, p. 19).</p> <p>The said Act is further amended by adding thereto, immediately after section 5 thereof, the following section:</p> <p><i>Restriction on registration and protection</i></p> <p>5.1 No protection afforded by this Act shall extend to:</p> <p>(a) features applied to a useful article that are dictated solely by a utilitarian function of the article; or</p> <p>(b) any method or principle of manufacture or construction (18, p. 19).</p>	<p>ACCESS TO INFORMATION ACT 1980-81-82-83, c.111, Sch. 1</p> <p>Schedule 1 to the <i>Access to Information Act</i> is amended by adding thereto, in alphabetical order under the heading “<i>Other Government Institutions</i>”, the following: “<i>Copyright Board</i>” (17, pp. 18-19).</p> <p>Coming into Force (<i>Amendment</i>) Section 17 shall come into force on a day to be fixed by proclamation (26, p. 21).</p>	<p>PRIVACY ACT 1980-81-82-83 c. 111, Sch. 11</p> <p>The schedule to the <i>Privacy Act</i> is amended by adding thereto, in alphabetical order under the heading “<i>Other Government Institutions</i>”, the following “<i>Copyright Board</i>” (20, pp. 19-20).</p> <p>Coming into Force (<i>Amendment</i>) Section 20 shall come into force on a day to be fixed by proclamation (26, p. 21).</p>
--	---	---	---

APPENDIX B

THE COPYRIGHT ACT, R.S., c.55

delivery by means of any mechanical instrument;	œuvre exécutée par un procédé analogue à la cinématographie;
"dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;	«œuvre créée en collaboration» signifie une œuvre exécutée par la collaboration de deux ou plusieurs auteurs, et dans laquelle la part créée par l'un n'est pas distincte de celle créée par l'autre ou les autres;
"engravings" includes etchings, lithographs, woodcuts, prints, and other similar works, not being photographs;	«œuvre d'art architecturale» signifie tout bâtiment ou édifice d'un caractère ou d'un aspect artistique, par rapport à ce caractère ou aspect, ou tout modèle pour un tel bâtiment ou édifice; mais la protection assurée par la présente loi se limite au caractère ou à l'aspect artistique et ne s'étend pas aux procédés ou méthodes de construction;
"every literary, dramatic, musical and artistic work" includes every original production in the literary, scientific or artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets, and other writings, lectures, dramatic or dramatico-musical works, musical works or compositions with or without words, illustrations, sketches, and plastic works relative to geography, topography, architecture or science;	«œuvre de sculpture» comprend les moules et modèles;
"Her Majesty's Realm and Territories" includes any territories under Her Majesty's protection to which an order in council made under the provisions of section 28 of the Copyright Act, 1911, passed by the Parliament of the United Kingdom, relates;	«œuvre dramatique» comprend toute pièce pouvant être récitée, les œuvres chorégraphiques ou les pantomimes dont l'arrangement scénique ou la mise en scène est fixé par écrit ou autrement, ainsi que toute production cinématographique lorsque les dispositions de la mise en scène ou les combinaisons des incidents représentés donnent à l'œuvre un caractère original;
"infringing", when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made, or imported in contravention of this Act;	«œuvre littéraire» comprend les cartes géographiques et compilations;
"lecture" includes address, speech, and sermon;	«œuvre musicale» signifie toute combinaison de mélodie et d'harmonie, ou l'une ou l'autre, imprimée, manuscrite, ou d'autre façon produite ou reproduite graphiquement;
"legal representatives" includes heirs, executors, administrators, successors and assigns, or agents or attorneys who are thereunto duly authorized in writing;	«photographie» comprend les photolithographies et toute œuvre exécutée par un procédé analogue à la photographie;
"literary work" includes maps, charts, plans, tables, and compilations;	«planche» comprend toute planche stéréotypée ou autre, pierre, moule, matrice, cliché, transposition ou épreuve négative servant à l'impression ou à la reproduction d'exemplaires d'une œuvre, ainsi que toute matrice ou autre pièce à l'aide de laquelle des empreintes, rouleaux perforés ou autres organes utilisés pour la reproduction sonore de l'œuvre sont confectionnés ou destinés à l'être;
"Minister" means the Minister of Consumer and Corporate Affairs;	«recueil» désigne
"musical work" means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced;	a) les encyclopédies, dictionnaires, annuaires ou œuvres analogues,
"performance" means any acoustic representation of a work or any visual representation of any dramatic action in a work, including	b) les journaux, revues, magazines ou autres



CHAPTER C-30

An Act respecting copyright

SHORT TITLE

1. This Act may be cited as the Copyright Act, R.S., c. 55, s. 1.

INTERPRETATION

2. In this Act "architectural work of art" means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, but the protection afforded by this Act is confined to the artistic character and design, and does not extend to processes or methods of construction;

"artistic work" includes works of painting, engravings and photographs; drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs;

"book" includes every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart, or plan separately published;

"cinematograph" includes any work produced by any process analogous to cinematography;

"collective work" means

- (a) an encyclopaedia, dictionary, year book, or similar work,
- (b) a newspaper, review, magazine, or similar periodical, and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

"delivery," in relation to a lecture, includes

2. Dans la présente loi «conférence» comprend les allocutions, discours et sermons;

«contrefaçon», à l'égard d'un exemplaire d'une œuvre sur laquelle subsiste un droit d'auteur, désigne toute reproduction, y compris l'imitation déguisée, faite ou importée contrairement à la présente loi;

«débit», se rapportant à une conférence, comprend le débit à l'aide d'un instrument mécanique quelconque;

«gravure» comprend les gravures à l'eau-forte, les lithographies, les gravures sur bois, les estampes et autres œuvres similaires, à l'exclusion des photographies;

«livre» comprend tout volume, toute partie ou division d'un volume, toute brochure, feuille d'impression typographique, feuille de musique, carte, tout graphique ou plan publiés séparément;

«Ministre» signifie le ministre de la Consommation et des Corporations;

«œuvre» comprend le titre de l'œuvre lorsque ce titre est original et distinctif;

«œuvre artistique» comprend les œuvres de peinture, de dessin, de sculpture et les œuvres artistiques dues à des artisans, ainsi que les œuvres d'art architecturales, les gravures et photographies;

«œuvre cinématographique» comprend toute

CHAPITRE C-30

Loi concernant le droit d'auteur

TITRE ABRÉGÉ

1. La présente loi peut être citée sous le titre : *Loi sur le droit d'auteur*, S.R., c. 55, art. 1.

INTERPRÉTATION

2. Dans la présente loi «conférence» comprend les allocutions, discours et sermons;

«contrefaçon», à l'égard d'un exemplaire d'une œuvre sur laquelle subsiste un droit d'auteur, désigne toute reproduction, y compris l'imitation déguisée, faite ou importée contrairement à la présente loi;

«débit», se rapportant à une conférence, comprend le débit à l'aide d'un instrument mécanique quelconque;

«gravure» comprend les gravures à l'eau-forte, les lithographies, les gravures sur bois, les estampes et autres œuvres similaires, à l'exclusion des photographies;

«livre» comprend tout volume, toute partie ou division d'un volume, toute brochure, feuille d'impression typographique, feuille de musique, carte, tout graphique ou plan publiés séparément;

«Ministre» signifie le ministre de la Consommation et des Corporations;

«œuvre» comprend le titre de l'œuvre lorsque ce titre est original et distinctif;

«œuvre artistique» comprend les œuvres de peinture, de dessin, de sculpture et les œuvres artistiques dues à des artisans, ainsi que les œuvres d'art architecturales, les gravures et photographies;

«œuvre cinématographique» comprend toute

(4) For the purposes of this Act, a work shall be deemed to be first published within Her Majesty's Realm and Territories or within a foreign country to which it has been extended, notwithstanding that it has been published simultaneously in some other place; and a work shall be deemed to be published simultaneously in two places, if the time between the publication in one such place and the other place does not exceed fourteen days or such longer period as may for the time being be fixed by order in council.

(5) Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with if the author was, during any substantial part of that period a British subject, or a subject or citizen of a foreign country to which this Act extends, or a resident within Her Majesty's Realm and Territories.

(6) For the purposes of this Act as to residence, an author of a work shall be deemed to be a resident within Her Majesty's Realm and Territories if he is domiciled within Her Majesty's Realm and Territories. R.S., c. 55, s. 3.

WORKS IN WHICH COPYRIGHT MAY SUBSIST

4. (1) Subject to this Act, copyright shall subsist in Canada for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work, if the author was at the date of the making of the work a British subject, a citizen or subject of a foreign country that has adhered to the Convention and the Additional Protocol thereto set out in Schedule II, or resident within Her Majesty's Realm and Territories; and if, in the case of a published work, the work was first published within Her Majesty's Realm and Territories or in such foreign country; but in no other works, except so far as the protection conferred by this Act is extended as hereinafter provided to foreign countries to which this Act does not extend.

(2) Where the Minister certifies by notice,

Copyright in unpublished works

(3) Copyright shall subsist for the term hereinafter mentioned in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical, literary or dramatic works. R.S., c. 55, s. 4.

Copyright in published works

(3) Le droit d'auteur existe pendant le temps ci-après mentionné à l'égard des empreintes, rouleaux perforés et autres organes à l'aide desquels des sons peuvent être reproduits mécaniquement, comme si ces organes constituaient des œuvres musicales, littéraires ou dramatiques. S.R., c. 55, art. 4.

TERM OF COPYRIGHT

5. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death. R.S., c. 55, s. 5.

Term of copyright in published works

6. In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist until publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the provisions of section 7 relating to the reproduction of a published work, after the death of the author, in the case of works mentioned in this section, apply as if the author had died at the date of such publication, performance or delivery in public as aforesaid. R.S., c. 55, s. 6

Le Ministre peut accorder le droit d'auteur à d'autres pays

as aforesaid. R.S., c. 55, s. 6

published in the *Canada Gazette*, that any country that has not adhered to the Convention and the Additional Protocol thereto, set out in Schedule II, grants or has undertaken to grant, either by treaty, convention, agreement or law, to citizens of Canada the benefit of copyright on substantially the same basis as to its own citizens or copyright protection substantially equal to that conferred by this Act, such country shall, for the purpose of the rights conferred by this Act, be treated as if it were a country to which this Act extends; and the Minister may give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, under the law of such country, differ from those in this Act.

Droit d'auteur relatif aux reproductions et autres organes mécaniques

(3) Le droit d'auteur existe pendant le temps ci-après mentionné à l'égard des empreintes, rouleaux perforés et autres organes à l'aide desquels des sons peuvent être reproduits mécaniquement, comme si ces organes constituaient des œuvres musicales, littéraires ou dramatiques. S.R., c. 55, art. 4.

DURÉE DU DROIT D'AUTEUR

5. A moins de dispositions contraires et formelles contenues dans la présente loi, la durée du droit d'auteur comprend la vie de l'auteur et une période de cinquante ans après sa mort. S.R., c. 55, art. 5.

Durée du droit d'auteur sur les œuvres posthumes

6. Lorsqu'il s'agit d'une œuvre littéraire, dramatique ou musicale, ou d'une gravure, encore protégée à la date de la mort de l'auteur ou, pour les œuvres créées en collaboration, à ou immédiatement avant la date de la mort de l'auteur qui décide le dernier, sans avoir été publiée ni, en ce qui concerne une œuvre dramatique ou musicale, exécutée ou représentée publiquement, ni, en ce qui concerne une conférence, débitee en public, avant cette date, le droit d'auteur subsiste jusqu'à la publication, ou jusqu'à l'exécution ou représentation ou la récitation en public, selon l'événement qui se produit en premier lieu, et cinquante ans au-delà; et les dispositions de l'article 7, quant à la reproduction d'une œuvre publiée après la mort de l'auteur, s'appliquent dans ce cas, comme si l'auteur était mort le jour de sa publication, exécution, représentation ou rec-

Reproduction of work after death of author	7. (1) After the expiration of twenty-five years, or in the case of a work in which copyright subsisted on the 4th day of June 1921, thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright, royalties in respect of all copies of the work sold by him, calculated at the rate of ten per cent on the price at which he publishes the work.	Chap. C-30	Reproduction d'une œuvre après le décès de l'auteur	7. (1) N'est pas considéré comme une violation du droit d'auteur sur une œuvre publiée, le fait de la reproduire pour la vente à partir du terme de vingt-cinq ans après la mort de l'auteur, ou de trente ans après cette mort, dans le cas d'une œuvre encore protégée le 4 juin 1921, si celui qui reproduit l'œuvre prouve qu'il a fait, par écrit, la notification obligatoire de son intention de reproduire l'œuvre et qu'il a payé de la manière prescrite au titulaire du droit d'auteur, ou pour son compte, des tantièmes à l'égard de tous les exemplaires de celle-ci vendus par lui, tantièmes calculés au taux de dix pour cent sur le prix de publication.
Regulations	(2) For the purposes of this section, the Governor in Council may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including, if he thinks fit, regulations requiring payment in advance or otherwise securing the payment of royalties. R.S., c. 55, s. 7.		Règlements	(2) Pour l'exécution du présent article, le gouverneur en conseil peut édicter des règlements concernant les modalités et les détails des notifications, ainsi que les modes, délais et périodes du paiement des tantièmes, de même que des règlements, s'il le juge à propos, prescrivant le paiement anticipé des tantièmes ou en garantissant d'autre façon l'acquiescement. S.R., c. 55, art. 7.
Case of joint authorship	8. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who dies last and for a term of fifty years after his death, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies last, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the date of the death of the author.		Œuvre en collaboration	8. (1) Lorsqu'il s'agit d'une œuvre créée en collaboration, le droit d'auteur subsiste durant toute la vie du dernier survivant des collaborateurs et durant une période de cinquante ans après sa mort. Toute mention dans la présente loi de la période qui suit l'expiration d'un nombre spécifié d'années à compter de la mort de l'auteur doit s'interpréter comme une mention de la période qui suit l'expiration d'un nombre égal d'années à compter du décès du dernier survivant des collaborateurs, et, dans les dispositions de la présente loi relatives à l'octroi de licences obligatoires, une mention de la date du décès du dernier survivant des collaborateurs doit être substituée à la date du décès de l'auteur.
Nationality of other countries	(2) Authors who are nationals of any country that grants a term of protection shorter than that mentioned in subsection (1) are not entitled to claim a longer term of protection in Canada. R.S., c. 55, s. 8.		Autres images	(2) Les auteurs ressortissants d'un pays qui accorde une durée de protection plus courte que celle qui est indiquée au paragraphe (1) ne sont pas admissibles à réclamer une plus longue durée de protection au Canada. S.R., c. 55, art. 8.
Term of copyright in photographs	9. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from		Durée du droit d'auteur sur les photographies	9. La durée du droit d'auteur sur les photographies est de cinquante ans à compter de la fabrication du cliché original dont la

which the photograph was directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the photograph so derived, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within Her Majesty's Realm and Territories if it has established a place of business therein. R.S., c. 55, s. 9.

10. The term for which copyright shall subsist in records, perforated rolls and other contrivances by means of which sounds may be mechanically reproduced shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of such contrivance, and where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within Her Majesty's Realm and Territories if it has established a place of business therein. R.S., c. 55, s. 10.

11. Without prejudice to any rights or privileges of the Crown, where any work is, or has been, prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, belong to Her Majesty and in such case shall continue for a period of fifty years from the date of the first publication of the work. R.S., c. 55, s. 11.

OWNERSHIP OF COPYRIGHT

12. (1) Subject to this Act, the author of a work shall be the first owner of the copyright therein.

(2) Where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then in the absence of any agreement to the contrary the person by whom such plate or other original was ordered shall be the first owner of the copyright.

(3) Where the author was in the employment of some other person under a contract of

photographie a été directement ou indirectement tirée; le propriétaire de ce cliché au moment de sa confection est considéré comme l'auteur de la photographie ainsi tirée, et si ce propriétaire est une corporation constituée, celle-ci est censée, pour les fins de la présente loi, résider dans les royaumes et territoires de Sa Majesté, si elle y a fondé un établissement commercial. S.R., c. 55, art. 9.

10. A l'égard des empreintes, rouleaux perforés et autres organes au moyen desquels des sons peuvent être reproduits mécaniquement, le droit d'auteur dure cinquante ans à compter de la confection de la planche originale dont l'organe est tiré directement ou indirectement; la personne qui était le propriétaire de cette planche originale au moment où cette dernière a été faite est réputée l'auteur de cet organe et lorsque le propriétaire est une corporation constituée, celle-ci est censée, pour les fins de la présente loi, résider dans les royaumes et territoires de Sa Majesté, si elle y a fondé un établissement commercial. S.R., c. 55, art. 10.

11. Sous réserve de tous les droits ou privilèges de la Couronne, le droit d'auteur sur les œuvres préparées ou publiées, par l'entremise, sous la direction ou la surveillance de Sa Majesté ou de quelque département du gouvernement, appartient, sauf stipulation conclue avec l'auteur, à Sa Majesté et, dans ce cas, il dure cinquante ans à compter de la première publication de l'œuvre. S.R., c. 55, art. 11.

POSSESSION DU DROIT D'AUTEUR

12. (1) Sous réserve de la présente loi, l'auteur d'une œuvre est le premier titulaire du droit d'auteur sur cette œuvre.

(2) Lorsqu'il s'agit d'une gravure, d'une photographie ou d'un portrait et que la planche ou autre production originale a été commandée par une tierce personne et confectionnée contre rémunération en vertu de cette commande, celui qui a donné la commande est, à moins de stipulation contraire, le premier titulaire du droit d'auteur.

(3) Lorsque l'auteur est employé par une autre personne en vertu d'un contrat de

service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright; but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(4) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to territorial limitations, and either for the whole term of the copyright or for any other part thereof, and may grant any interest in the right by licence, but no such assignment or grant is valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent.

(5) Where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him, otherwise than by will, after the 4th day of June 1921, is operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest is void; but nothing in this subsection shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(6) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and this Act

has effect accordingly.

(7) Independently of the author's copyright, and even after the assignment, either wholly or partially, of the said copyright, the author has the right to claim authorship of the work, as well as the right to restrain any distortion, mutilation or other modification of the work that would be prejudicial to his honour or reputation. R.S., c. 56, s. 12.

COMPULSORY LICENCES

13. Where, at any time after the death of the author of a literary, dramatic, or musical work that has been published or performed in public, a complaint is made to the Governor in Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as the Governor in Council may think fit. R.S., c. 56, s. 13.

LICENCES

14. (1) Any person may apply to the Minister for a licence to print and publish in Canada any book wherein copyright subsists, if at any time after publication and within the duration of the copyright the owner of the copyright fails

(a) to print the book or cause it to be printed in Canada, or

(b) to supply by means of copies so printed the reasonable demands of the Canadian market for the book.

(2) An application under subsection (1) may be in such form as may be prescribed by the regulations and shall state the proposed retail price of the edition of the book proposed to be printed.

(3) Every applicant for a licence under this section shall with his application deposit with

non cédés, et les dispositions de la présente loi reçoivent leur application en conséquence.

(7) Indépendamment de ses droits d'auteur, et même après la cession partielle ou totale desdits droits, l'auteur conserve la faculté de revendiquer la paternité de l'œuvre, ainsi que le privilège de réprimer toute déformation, mutilation ou autre modification de ladite œuvre, qui serait préjudiciable à son honneur ou à sa réputation. S.R., c. 56, art. 12.

LICENCES OBLIGATOIRES

13. Lorsque, à un moment quelconque après la mort de l'auteur d'une œuvre littéraire, dramatique ou musicale, déjà publiée ou exécutée ou représentée publiquement, il est présenté au gouverneur en conseil une plainte portant que le titulaire du droit d'auteur sur l'œuvre a refusé de la publier à nouveau, ou d'en permettre une nouvelle publication, ou bien qu'il a refusé d'en permettre l'exécution ou la représentation publique, en sorte que le public en est privé, le titulaire du droit d'auteur peut être sommé d'accorder une licence de reproduire l'œuvre, de l'exécuter ou de la représenter en public, selon le cas, aux conditions jugées convenables par le gouverneur en conseil. S.R., c. 56, art. 13.

LICENCES

14. (1) Toute personne peut demander au Ministre une licence l'autorisant à imprimer et publier au Canada un livre qui fait l'objet d'un droit d'auteur, si, après la publication de ce livre et tant que ce livre fait l'objet d'un droit d'auteur, le titulaire de ce droit d'auteur omet

a) d'imprimer ce livre ou de le faire imprimer au Canada, ou

b) de mettre sur le marché canadien un nombre suffisant d'exemplaires ainsi imprimés de ce livre pour satisfaire la demande raisonnable.

(2) Une demande en vertu du paragraphe (1) peut se faire suivant la formule prescrite par les règlements, et elle doit mentionner le prix projeté de vente au détail de l'édition du livre qu'on se propose d'imprimer.

(3) Quiconque demande une licence, sous l'autorité du présent article, doit déposer chez

the Minister an amount not less than ten per cent of the retail selling price of one thousand copies of the book and not less than one hundred dollars and such amount shall, if the application is unsuccessful, be returned to the applicant less such deductions for fees as may be authorized by the regulations.

(4) Notice of the application shall forthwith be communicated by the Minister to the owner of the copyright in such manner as may be prescribed by the regulations.

(5) Where the owner of the copyright does not within a delay to be fixed by the regulations after communication of the notice give an undertaking, with such security as may be prescribed by the regulations, to procure within two months after the date of such communication the printing in Canada of an edition of not less than one thousand copies of such book, the Minister in his discretion may grant to the applicant a licence to print and publish the book upon terms to be determined by the Minister after hearing the parties or affording them such opportunity to be heard as may be fixed by the regulations.

(6) Where two or more persons have applied for a licence under this section, the Minister shall award the licence to the applicant proposing the terms, in the opinion of the Minister, most advantageous to the author, and if there are two proposing terms equally advantageous to the author, to the applicant whose application was first received.

(7) Such licence when issued entitles the licensee to the sole right to print and publish such book in Canada during such term, not exceeding five years or for such edition or editions as may be fixed by the licence.

(8) Such licensee shall pay a royalty on the retail selling price of every copy of such book printed under such licence, at a rate to be determined by the Minister.

(9) The acceptance of a licence for a book shall imply an undertaking by the licensee (a) to print and publish in Canada an edition of the book of not less than one thousand copies, at the price specified in the licence, and within two months from the issue of the licence, and (b) to print the same from the last author-

le Ministre, en même temps que sa demande, une somme d'au moins dix pour cent du prix de la vente au détail de mille exemplaires dudit livre et d'au moins cent dollars, et si la demande est rejetée, cette somme est remboursée audit requérant, déduction faite des taxes que peuvent autoriser les règlements.

(4) Le Ministre doit immédiatement communiquer avis de cette demande au titulaire du droit d'auteur de la manière que prescrivent les règlements.

(5) Si le titulaire du droit d'auteur, dans le délai que fixent les règlements, après communication dudit avis, ne s'engage pas, au moyen de la garantie que prescrivent les règlements, à procurer, dans les deux mois qui suivent la date de cette communication, l'impression au Canada d'une édition d'au moins mille exemplaires dudit livre, le Ministre peut à sa discrétion accorder au requérant une licence l'autorisant à imprimer et publier ce livre, aux conditions qu'établit le Ministre, après avoir entendu les parties intéressées ou leur avoir fourni, en vue de se faire entendre, l'occasion prévue aux règlements.

(6) Lorsque deux ou plusieurs personnes ont demandé une licence sous le régime du présent article, le Ministre l'accorde au requérant qui, à son avis, offre les conditions les plus avantageuses pour l'auteur; et si deux requérants proposent des conditions également avantageuses pour l'auteur, la licence est adjugée à celui dont la demande a été reçue la première.

(7) Cette licence une fois délivrée confère à son porteur le droit exclusif d'imprimer et de publier ce livre au Canada pendant la période d'au plus cinq ans qu'elle spécifie, ou d'en publier l'édition ou les éditions qu'elle détermine.

(8) Ce porteur de licence doit payer le tantième fixé par le Ministre, sur le prix de vente au détail de tous les exemplaires de ce livre imprimé en vertu de cette licence.

(9) L'acceptation d'une licence pour un livre implique l'obligation, de la part du porteur de cette licence,

a) d'imprimer et publier au Canada une édition d'au moins mille exemplaires de ce livre, au prix mentionné dans la licence, et dans un délai de deux mois de la date de licence, et

b) de publier le même livre en feuilleton,

ized edition of the book in such manner as may be prescribed by the Minister, in full, without abbreviation or alteration of the letterpress, and, without varying, adding to, or diminishing the main design of such of the prints, engravings, maps, charts, musical compositions, or photographs contained in the book as the licensee reproduces.

(10) Every book published under a licence under this section shall have printed or otherwise impressed upon it the words "Printed under Canadian licence", the calendar year of such licence and the retail selling price of such book.

(11) Where the Minister on complaint is satisfied that the licensee does not print and keep on sale in Canada a number of copies of the book sufficient to supply the reasonable demand, he shall, after giving the licensor an opportunity of being heard to show cause against the cancellation, cancel the licence.

(12) Where a book for which a licence has been issued is suppressed by the owner of the copyright, the licensee shall not print the book or any further copies thereof, but may sell any copies already printed, and may complete and sell any copies in process of being printed under his licence, but the owner of the copyright is entitled to buy all such copies at the cost of printing them.

(13) Nothing in this section authorizes the granting, without the consent of the author, of a licence to publish a second or succeeding edition of any work whereof such author has published one or more editions in Canada. R.S., c. 55, s. 14.

SERIAL LICENCE

15. (1) Where the publication of a book is lawfully begun as a serial elsewhere than in Her Majesty's Realm and Territories or a foreign country to which this Act applies, and the owner of the copyright has refused to grant a licence to any person in Canada, being a publisher of a periodical, to publish such book in serial form, a licence may in the

b) de faire cette impression d'après l'édition autorisée la plus récente du livre, de la façon qu'indique le Ministre, et de faire cette impression complète, sans abréviations ni altérations de la typographie, et sans apporter de modifications, d'additions ou de retranchements aux grandes lignes des estampes, gravures, cartes, graphiques, compositions musicales ou photographies, contenues dans le livre, que reproduit le porteur de la licence.

(10) Tout livre publié en vertu d'une licence, par l'effet du présent article, doit porter, imprimés ou autrement empreints, les mots «Imprimé en vertu d'une licence canadienne», l'année civile de cette licence et le prix de vente au détail de ce livre.

(11) Si le Ministre est convaincu, après le dépôt d'une plainte, que le porteur de la licence ne fait pas imprimer et ne tient pas en vente au Canada un nombre suffisant d'exemplaires du livre pour satisfaire à la demande raisonnable, il doit révoquer la licence, après avoir fourni au porteur l'occasion de se faire entendre et d'exposer un motif valable contre cette révocation.

(12) Lorsque le titulaire du droit d'auteur retire de la circulation un livre qui a fait l'objet d'une licence, le porteur de la licence ne doit pas faire imprimer ce livre ni d'autres exemplaires de ce livre, mais il peut vendre les exemplaires déjà imprimés, et terminer et vendre les exemplaires en voie d'impression en vertu de sa licence. Le titulaire du droit d'auteur est cependant autorisé à acheter tous ces exemplaires à leur coût d'impression.

(13) Rien au présent article ne doit autoriser l'octroi, sans le consentement de l'auteur, d'une licence de publier une deuxième ou subséquente édition d'une œuvre lorsque l'auteur a publié une ou plus d'une édition de cette œuvre au Canada. S.R., c. 55, art. 14.

LICENCE DE SÉRIE

15. (1) Si la publication d'un livre est légitimement commencée comme feuilleton ailleurs que dans les royaumes et territoires de Sa Majesté ou dans un pays étranger visé par la présente loi et que le titulaire du droit d'auteur ait refusé d'accorder à un éditeur d'un périodique au Canada une licence l'autorisant à publier ce livre en feuilleton,

Endorsements on book

Cancellation of licence

Suppression by copyright owner

Second or later editions

Licence to publish book in serial form

Mention sur livre

Révoque de la licence

Retrait par le titulaire du droit d'auteur

Deuxième ou subséquente édition

Licence de série

licencee or in this Act, between the owner of the copyright and the licensee, and the licensee is entitled to the like remedies as in the case of a contract.	licées dans cette licence ou dans la présente loi, entre le titulaire du droit d'auteur et le porteur de la licence, et ce dernier a droit au même recours que s'il s'agissait d'un contrat.		
(2) The licensee has the same power and right to take any action or any legal proceedings to prevent or restrain any infringement of copyright that affects the rights of such licensee or to recover compensation or damages for any such infringement that the owner of the copyright would have for an infringement of his copyright.	(2) Le détenteur de la licence possède le même pouvoir et le même droit d'exercer une action ou d'intenter des procédures judiciaires afin de prévenir ou d'empêcher toute violation du droit d'auteur qui porte atteinte aux droits de ce porteur de licence ou afin de recouvrer une indemnité ou des dommages-intérêts du fait de cette violation, que posséderait le titulaire du droit d'auteur dans le cas de violation de son propre droit d'auteur.	Droit d'action du détenteur de la licence	
(3) The owner of the copyright, in addition to any other remedy in respect to such licence as a contract, is entitled, in case of default by the licensee in observing the terms of such licence, on petition to the Exchequer Court of Canada, to have such licence cancelled.	(3) Outre tout autre recours concernant cette licence à titre de contrat, le titulaire du droit d'auteur est admis, si le porteur de cette licence omet de se conformer aux conditions de cette licence, sur requête à la Cour de l'Échiquier du Canada, à obtenir que cette licence soit révoquée.	Licence déclarée infirmée en défaut	Licence déclarée infirmée par défaut
(4) Particulars of such cancellation may be entered on the Register of Copyrights.	(4) Les détails de cette révocation de licence peuvent être inscrits au registre des droits d'auteur.	Particulars in Register	Détails de licence
(5) All moneys paid or payable by a licensee or applicant for a licence under sections 13, 14 and 15 shall be paid to the Minister.	(5) Toutes les sommes payées ou payables par un porteur ou un demandeur de licence, sous le régime des articles 13, 14 et 15, doivent être versées au Ministre.	Fees paid to Minister	Taxes payées au Ministre
(6) All moneys deposited by a successful applicant for a licence and all moneys due from time to time by way of royalty or otherwise from licensees shall likewise be paid to the Minister and by him paid out to the persons entitled thereto.	(6) Toutes les sommes déposées par un requérant qui a obtenu une licence et les sommes dues, de temps à autre, sous forme de tantièmes ou autrement, par des porteurs de licences, doivent également être versées au Ministre qui en fait remise aux ayants droit.	Deposits and royalty paid to Minister	Dépôts et tantièmes remis au Ministre
(7) The Minister may by regulations require every copy of a book upon which the royalty has been duly paid to be suitably stamped or marked.	(7) Le Ministre peut prescrire, par règlement, que soit timbré ou marqué d'une manière appropriée chaque exemplaire d'un livre sur lequel le tantième a été régulièrement acquitté.	Payment of royalty stamped on book	Acquittement des tantièmes
(8) This section and sections 14 and 15 do not apply to any work the author of which is a British subject, other than a Canadian citizen, or the subject or citizen of a country that has adhered to the Convention and the Additional Protocol thereto set out in Schedule II. R.S., c. 55, s. 16.	(8) Le présent article et les articles 14 et 15 ne s'appliquent à aucune œuvre dont l'auteur est sujet britannique, autre qu'un citoyen canadien, ou dont l'auteur est sujet ou citoyen d'un pays qui a adhéré à la Convention et au Protocole additionnel de cette Convention publiés dans l'annexe II. S.R., c. 55, art. 16.	Application of provisions regarding licensee	Application des dispositions relatives aux licences et à l'importation
17. (1) Copyright in a work shall be deemed to be infringed by any person who,	17. (1) Est considéré comme ayant porté atteinte au droit d'auteur sur une œuvre,	Infringement of copyright	VIOLATION DU DROIT D'AUTEUR

discretion of the Minister be granted to any person in Canada, being the publisher of a periodical, to publish such book once in serial form in the said periodical; but a licence shall not be granted to more than one such publisher in the same city, town or place.	une licence peut, à la discrétion du Ministre, être accordée à un éditeur d'un périodique au Canada pour l'autoriser à publier ce livre une fois en feuilleton dans ce périodique, mais une licence ne doit pas être accordée à plus d'un de ces éditeurs en la même cité, ville ou localité.		
(2) Such licence may be issued by the Minister on application by the publisher in such form as may be prescribed by the regulations.	(2) Le Ministre peut délivrer cette licence sur demande faite par l'éditeur selon la formule que peuvent prescrire les règlements.	Demande	
(3) The term "serial" under this section means and refers to any book that is first published in separate articles or as a tale or short story complete in one issue in a newspaper or periodical.	(3) L'expression «feuilleton», en vertu du présent article, signifie et désigne un livre qui est d'abord publié sous forme d'articles distincts, ou sous forme de récit ou de nouvelle complète en un numéro d'un journal ou périodique.	Serial	«Feuilleton»
(4) The term "owner of a copyright" under this section may mean the owner of the right to publish in serial form as distinct and separate from other rights of publication.	(4) L'expression «titulaire d'un droit d'auteur», sous le régime du présent article, peut signifier le titulaire du droit de publier sous forme de feuilleton, à l'exclusion et indépendamment d'autres droits de publication.	Owner of a copyright	«Titulaire d'un droit d'auteur»
(5) The application for a licence under this section may be in the form of a draft contract between the licensee and the owner of the copyright.	(5) La demande d'une licence, sous l'autorité du présent article, peut être sous forme d'un projet de contrat entre le porteur de la licence et le titulaire du droit d'auteur.	Draft contract	Projet de contrat
(6) Such licence may be upon the terms proposed in such draft contract, or upon terms prescribed by the regulations, but before such terms are settled the owner of the copyright is entitled to be fully heard in support of any contentions or representations he may deem it in his interests to make.	(6) Cette licence peut être émise aux conditions stipulées dans ce projet de contrat, ou aux conditions prescrites par les règlements, mais avant que ces conditions soient arrêtées, le titulaire du droit d'auteur est admis à être entendu à fond pour appuyer les représentations qu'il juge à propos de faire valoir dans son intérêt.	Terms of licence	Conditions de la licence
(7) The applicant for a licence under this section shall with his application deposit such amount of money as may be required by the regulations, and such money shall on the issue of the licence be paid forthwith to the owner of the copyright.	(7) Quiconque demande une licence sous l'autorité du présent article doit déposer avec sa demande la somme d'argent que peuvent prescrire les règlements, et, à la délivrance de la licence, cette somme doit être immédiatement versée au titulaire du droit d'auteur.	Deposit with application	Dépôt avec demande
(8) Nothing in this Act prohibits the importation and circulation of newspapers, magazines and periodicals that together with foreign original matter contain serials licensed to be printed and published in Canada. R.S., c. 55, s. 15.	(8) Aucune disposition de la présente loi n'interdit l'importation et la circulation de journaux, magazines et périodiques qui, avec un texte étranger original, contiennent des feuilletons dont l'impression et la publication au Canada sont autorisées par licence. S.R., c. 55, art. 15.	Importation of newspapers etc., not prohibited	Importation de journaux, etc., et permis
16. (1) Every licence issued under sections 13, 14 and 15 shall be deemed to constitute a contract, on the terms embodied in such	16. (1) Toute licence délivrée sous le régime des articles 13, 14 et 15 est censée constituer un contrat, aux conditions formu-	License deemed a contract	La licence considérée comme un contrat

without the consent of the owner of the copyright, does anything that, by this Act, only the owner of the copyright has the right to do.

(2) The following acts do not constitute an infringement of copyright:

- (a) any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary;
- (b) where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, if he does not thereby repeat or imitate the main design of that work;
- (c) the making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situated in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs that are not in the nature of architectural drawings or plans, of any architectural work of art;
- (d) the publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists, if not more than two of such passages from works by the same author are published by the same publisher within five years, and the source from which such passages are taken is acknowledged;
- (e) the publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except while the building is being used for public worship, in a position near the lecturer, but nothing in this paragraph affects the provisions in paragraph (a) as to newspaper summaries;
- (f) the reading or recitation in public by one person of any reasonable extract from any published work;
- (g) the performance without motive of gain

(2) Ne constituent aucune violation du droit d'auteur:

- a) l'utilisation équitable d'une œuvre quelconque pour des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé destiné aux journaux;
- b) l'utilisation, par l'auteur d'une œuvre artistique, lequel ne possède pas le droit d'auteur sur cette œuvre, des moules, moulages, esquisses, plans, modèles ou études qu'il a faits en vue de la création de cette œuvre, à la condition de ne pas en répéter ou imiter par là les grandes lignes;
- c) l'exécution ou la publication de tableaux, dessins, gravures ou photographies d'une œuvre de sculpture ou d'une œuvre due au travail artistique d'un artisan, érigée en permanence sur une place publique ou dans un édifice public, ni l'exécution ou la publication de tableaux, dessins, gravures, ou photographies n'ayant pas le caractère de dessins ou plans architecturaux, d'une œuvre d'art architecturale;
- d) la publication de courts extraits d'œuvres littéraires encore protégées, publiées et non destinées elles-mêmes à l'usage des écoles, dans un recueil qui est composé principalement de matières non protégées, préparé de bonne foi pour être utilisé dans les écoles et désigné comme tel dans le titre et dans les annonces faites par l'éditeur, si dans l'espace de cinq ans, le même éditeur ne publie pas plus de deux passages tirés des œuvres du même auteur, et si la source de l'emprunt est indiquée;
- e) la publication, dans un journal, du compte rendu d'une conférence faite en public, à moins qu'il n'ait été défendu d'en rendre compte par un avis écrit ou imprimé et visiblement affiché, avant et pendant la conférence, à la porte ou près de la porte d'entrée principale de l'édifice où elle a lieu; l'affiche doit encore être posée à une place près du conférencier, sauf lorsqu'il parle dans un édifice servant, à ce moment, à un culte public; toutefois, le présent alinéa n'affecte en rien la disposition contenue dans l'alinéa a) au sujet des

Actes not constituant infraction de copyright

of any musical work at any agricultural, agricultural-industrial exhibition or fair which receives a grant from or is held under federal, provincial or municipal authority, by the directors thereof.

(3) No church, college or school and no religious, charitable or fraternal organization shall be held liable to pay any compensation to the owner of any musical work or to any person claiming through him by reason of the public performance of any musical work in furtherance of a religious, educational or charitable object.

(4) Copyright in a work shall also be deemed to be infringed by any person who (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire;

(b) distributes either for the purposes of trade, or to such an extent as to affect prejudicially the owner of the copyright;

(c) by way of trade exhibits in public; or

(d) imports for sale or hire into Canada; any work that to his knowledge infringes copyright or would infringe copyright if it had been made within Canada.

Public performance for private profit without owner's consent

(5) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright. R.S., c. 55, s. 17.

Report to newspaper of political speech so infringing

18. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper. R.S., c. 55, s. 18.

Making in Canada of records, etc., so infringing

19. (1) It shall not be deemed to be an

Further exceptions

(3) Aucune église, école ou organisation religieuse, charitable ou fraternelle n'est tenue de payer quelque compensation au propriétaire d'une œuvre musicale ni à une personne réclamant au lieu et place d'un tel propriétaire contre l'exécution publique d'une œuvre musicale dans l'intérêt d'une entreprise religieuse, éducative ou charitable.

(4) Est également considéré comme ayant porté atteinte au droit d'auteur, quiconque

a) vend ou loue, ou commercialement met ou offre en vente ou en location;

b) met en circulation, soit dans un but commercial, soit de façon à porter préjudice au titulaire du droit d'auteur;

c) expose commercialement en public; ou

d) importe pour la vente ou la location au Canada;

une œuvre qui, à sa connaissance, viole le droit d'auteur ou le violerait si elle avait été produite au Canada.

Infringement by personal action

(5) Est également considéré comme ayant porté atteinte au droit d'auteur quiconque, dans un but de lucre personnel, permet l'utilisation d'un théâtre ou d'un autre local de divertissement pour l'exécution ou la représentation publique d'une œuvre sans le consentement du titulaire du droit d'auteur, à moins d'avoir ignoré et de n'avoir eu aucun motif raisonnable de soupçonner que l'exécution ou la représentation constituerait une violation du droit d'auteur. S.R., c. 55, art. 17.

Report to newspaper of political speech so infringing

18. Nonobstant les dispositions de la présente loi, le fait de publier dans un journal le compte rendu d'une allocution de nature politique, prononcée dans une assemblée publique, ne constitue aucune violation du droit d'auteur à cet égard. S.R., c. 55, art. 18.

Discretionary provisions

19. (1) N'est pas considéré comme une

La rédaction d'organes au Canada ne constitue pas une violation

19. (1) N'est pas considéré comme une

infringement of copyright in any musical, literary or dramatic work for any person to make within Canada records, perforated rolls, or other contrivances, by means of which sounds may be reproduced and by means of which the work may be mechanically performed, if such person proves

(a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(b) that he has given the prescribed notice of his intention to make the contrivances, and that there has been paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, as hereinafter mentioned.

(2) Nothing in subsection (1) authorises any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question.

(3) For the purposes of subsection (1), a musical, literary or dramatic work shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(4) The making of the necessary manuscript arrangement and instrumentations of the copyrighted work for the sole purpose of the adaptation of the work to the contrivances in question, shall not be deemed an infringement of copyright.

(5) The royalty mentioned in subsection (1) shall be two cents for each playing surface of each such record and two cents for each such perforated roll or other contrivance.

(6) Where any such contrivance is made reproducing on the same playing surface two or more different works in which copyright subsists, and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned among the several owners of the copyright equally

When alterations necessary for adaptation to contrivances

Contrivance not included

Manuscript arrangements

Rate of royalty

Apportionment of royalties when several owners

(7) When any such contrivances by means of which a literary, dramatic or musical work may be mechanically performed have been made, then for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time

(8) For the purposes of this section, the Governor in Council may make regulations prescribing anything that under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties; and any such regulations may, if the Governor in Council thinks fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(9) In the case of musical, literary or dramatic works published before the 1st day of January 1924, the foregoing provisions shall have effect, subject to the following modifications and additions:

(a) the conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, do not apply;

(b) no royalties are payable in respect of contrivances lawfully made and sold by the manufacturer before the 1st day of January 1924;

(c) notwithstanding any assignment made before the 4th day of June 1921 of the copyright in a literary or dramatic or musical work, any rights conferred by this Act in respect of the making, or authorizing the making, of contrivances by means of which the work may be mechanically performed, shall belong to the author or his legal representatives and not to the assignee, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal representatives.

(10) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the 1st day of January 1924, copyright

When contrivance deemed to have been made by or with the consent of the owner

Regulations and orders by Governor in Council

Provision as to musical works heretofore published

Copyright deemed to have been made by author or his legal representatives

(7) Lorsque des organes servant à l'exécution mécanique d'une œuvre littéraire, dramatique ou musicale ont été confectionnés, le titulaire du droit d'auteur sur l'œuvre est, pour les fins du présent article et à l'égard de quiconque lui adresse les requêtes prescrites, censé avoir donné l'autorisation de confectionner lesdits organes, s'il ne répond pas à ces requêtes dans le délai prévu

(8) Pour l'application du présent article, le gouverneur en conseil peut établir des règlements ordonnant tout ce qui aux termes du présent article doit être prescrit et déterminant la façon de donner des avis ainsi que les détails à y indiquer, de même que le mode, l'époque et la fréquence des versements de tantièmes, et tout semblable règlement peut, si le gouverneur en conseil le juge à propos, comprendre des prescriptions exigeant le paiement anticipé, ou autre garantie de l'acquiescement, des tantièmes

(9) Les dispositions qui précèdent sont applicables aux œuvres musicales, littéraires ou dramatiques, publiées avant le 1er janvier 1924, sous réserve, toutefois, des modifications et adjonctions que voici :

a) ne sont applicables ni les conditions concernant la confection préalable des organes par le titulaire du droit d'auteur sur l'œuvre ou leur confection faite avec son consentement ou assentiment, ni les restrictions relatives aux modifications ou retranchements de l'œuvre ;

b) aucun tantième n'est payable à l'égard des organes littéraires fabriqués et vendus par le fabricant avant le 1er janvier 1924 ;

c) quand bien même le droit d'auteur sur une œuvre littéraire, dramatique ou musicale, aurait été cédé avant le 4 juin 1921, tout droit, conféré par la présente loi, de confectonner, ou d'autoriser que soient confectionnés, des organes servant à l'exécution mécanique de l'œuvre, appartient, non pas au cessionnaire, mais à l'auteur ou à ses représentants légaux à qui, ou pour le compte de qui, les tantièmes précités doivent être payés

(9) Les dispositions qui précèdent sont applicables aux œuvres musicales, littéraires ou dramatiques, publiées avant le 1er janvier 1924, sous réserve, toutefois, des modifications et adjonctions que voici :

a) ne sont applicables ni les conditions concernant la confection préalable des organes par le titulaire du droit d'auteur sur l'œuvre ou leur confection faite avec son consentement ou assentiment, ni les restrictions relatives aux modifications ou retranchements de l'œuvre ;

b) aucun tantième n'est payable à l'égard des organes littéraires fabriqués et vendus par le fabricant avant le 1er janvier 1924 ;

c) quand bien même le droit d'auteur sur une œuvre littéraire, dramatique ou musicale, aurait été cédé avant le 4 juin 1921, tout droit, conféré par la présente loi, de confectonner, ou d'autoriser que soient confectionnés, des organes servant à l'exécution mécanique de l'œuvre, appartient, non pas au cessionnaire, mais à l'auteur ou à ses représentants légaux à qui, ou pour le compte de qui, les tantièmes précités doivent être payés

(10) Nonostante le disposizioni de la presente loi, lorché une empreinte, un rouleau perforé ou autre organe au moyen desquels des sons peuvent être reproduits mécaniquement ont été confectionnés avant le 1er

(d) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed, or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purpose of proceedings in respect of the infringement of copyright therein.

Attribution of damages

(4) Where any person infringes the copyright in any work that is protected under this Act, such person is liable to pay such damages to the owner of the right infringed as he may have suffered due to the infringement, and in addition thereto such part of the profits that the infringer has made from such infringement as the court may decide to be just and proper; and in proving profits the plaintiff shall be required to prove only receipts or revenues derived from the publication, sale or other disposition of an infringing work, or from any unauthorized performance of the work in which copyright subsists; and the defendant shall be required to prove every element of cost that he claims.

Protection of separate rights

(5) The author or other owner of any copyright or any person or persons deriving any right, title or interest by assignment or grant in writing from any author or other owner as aforesaid, may each, individually for himself, in his own name as party to a suit, action, or proceeding, protect and enforce such rights as he may hold, and to the extent of his right, title, and interest is entitled to the remedies provided by this Act.

Concurrent jurisdiction of Exchequer Court

(6) The Exchequer Court of Canada shall have concurrent jurisdiction with provincial courts to hear and determine all civil actions, suits, or proceedings that may be instituted for violation of any of the provisions of this Act or to enforce the civil remedies provided by this Act. R.S., c. 55, s. 20.

Ownership of copies, plates, etc.

21. All infringing copies of any work in which copyright subsists, or of any substantial

janvier 1924, le droit d'auteur existe à leur égard, à partir de ladite date, de la même manière et pour la même durée que si cette loi avait été en vigueur au moment où la planche originale dont l'organe a été tiré, directement ou indirectement, a été fabriquée, la personne qui, le 1er janvier 1924, est propriétaire de la planche originale, est le premier titulaire du droit d'auteur; et la présente disposition ne doit pas être interprétée comme si elle assurait le droit d'auteur à l'égard d'un organe semblable, dont la confection aurait porté atteinte au droit d'auteur sur un autre organe de ce genre, si cette disposition avait été en vigueur au moment où l'organe mentionné en premier lieu a été fabriqué. S.R., c. 55, art. 19.

RECOURS CIVILS

RECOURS CIVILS

20. (1) Lorsque le droit d'auteur sur une œuvre a été violé, le titulaire du droit est admis, sauf disposition contraire de la présente loi, à exercer tous les recours, par voie d'injonction, dommages-intérêts, restitution de compte ou autrement, que la loi accorde ou peut accorder pour la violation d'un droit.

(2) Les frais de toutes les parties à des fins procédures relatives à la violation du droit d'auteur sont à la discrétion absolue de la cour.

Présomption de propriété

(3) Dans toute action pour violation du droit d'auteur sur une œuvre, si le défendeur conteste l'existence du droit d'auteur ou la qualité du demandeur,

a) l'œuvre est, jusqu'à preuve contraire, présumée être une œuvre protégée par un droit d'auteur; et
b) l'auteur de l'œuvre est, jusqu'à preuve contraire, présumé être le titulaire du droit d'auteur;

et dans toute contestation de cette nature, si aucun concession du droit d'auteur ou d'un intérêt dans le droit d'auteur par cession ou par licence n'a été enregistré sous l'autorité de la présente loi,

c) si un nom paraissant être celui de l'auteur de l'œuvre y est imprimé ou autrement indiqué, en la manière habituelle, la personne dont le nom est ainsi imprimé ou indiqué est, jusqu'à preuve contraire, présumée être l'auteur de l'œuvre; et
d) si aucun nom n'est imprimé ou indiqué

Civil remedies

20. (1) Where copyright in any work has been infringed, the owner of the copyright is, except as otherwise provided by this Act, entitled to all such remedies by way of injunction, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

Court

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the court.

Presumption as to copyright and ownership

(3) In any action for infringement of copyright in any work, in which the defendant puts in issue either the existence of the copyright, or the title of the plaintiff thereto, then, in any such case,

(a) the work shall, unless the contrary is proved, be presumed to be a work in which copyright subsists; and
(b) the author of the work shall, unless the contrary is proved, be presumed to be the owner of the copyright;

and where any such question is at issue, and no grant of the copyright or of an interest in the copyright, either by assignment or licence, has been registered under this Act, then, in any such case,

(c) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work; and

de cette façon, ou si le nom ainsi imprimé ou indiqué n'est pas le véritable nom de l'auteur ou le nom sous lequel il est généralement connu, et si un nom paraissant être celui de l'éditeur ou du propriétaire de l'œuvre y est imprimé ou autrement indiqué de la manière habituelle, la personne dont le nom est ainsi imprimé ou indiqué est, jusqu'à preuve contraire, présumée être le titulaire du droit d'auteur sur l'œuvre, aux fins de procédures relatives à la violation du droit d'auteur sur cette œuvre.

Attribution des dommages

(4) Quiconque viole le droit d'auteur sur une œuvre protégée en vertu de la présente loi est passible de payer, au titulaire du droit d'auteur qui a été violé, les dommages-intérêts que ce titulaire a subis du fait de cette violation, et, en sus, telle proportion, que le tribunal peut juger équitable, des profits que le contrefacteur a réalisés en commettant cette violation du droit d'auteur. Dans la détermination des profits, le demandeur n'est tenu d'établir que les recettes ou les produits provenant de la publication, vente ou autre utilisation illicite de l'œuvre, ou d'une représentation, exécution ou audition non autorisée de l'œuvre restée protégée; et le défendeur doit prouver chaque élément du coût qu'il allègue.

Protection des droits distincts

(5) L'auteur, ou un autre titulaire d'un droit d'auteur, ou quiconque possède un droit, un titre ou un intérêt acquis par cession ou concession consentie par écrit d'un auteur ou d'un autre titulaire susdit, peut, individuellement pour son propre compte, en son propre nom comme partie à une poursuite, action ou procédure, soutenir et faire valoir les droits qu'il détient, et il peut exercer les recours prescrits par la présente loi dans toute l'étendue de son droit, de son titre et de son intérêt.

Jurisdiction concurrente de la Cour de l'Échiquier

(6) La Cour de l'Échiquier du Canada, concurremment avec les tribunaux provinciaux, a juridiction pour instruire et juger toute action, poursuite ou procédure civile intentée pour infraction à quelque disposition de la présente loi ou pour l'application des recours civils que prescrit la présente loi. S.R., c. 55, art. 20.

Propriété des exemplaires, planches, etc.

21. Tous les exemplaires contrefaits d'une œuvre protégée, ou d'une partie importante

part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof. R.S., c. 55, s. 21.

22. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff is not entitled to any remedy other than an injunction in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had no reasonable ground for suspecting that copyright subsisted in the work; but if at the date of the infringement the copyright in the work was duly registered under this Act, the defendant shall be deemed to have had reasonable ground for suspecting that copyright subsisted in the work. R.S., c. 55, s. 22.

23. (1) Where the construction of a building or other structure that infringes or that, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright is not entitled to obtain an injunction in respect of the construction of such building or structure or to order its demolition.

(2) The other provisions of this Act which provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or that impose summary penalties, do not apply in any case to which this section applies. R.S., c. 55, s. 23.

24. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement. R.S., c. 55, s. 24.

SUMMARY REMEDIES

25. (1) Where any person knowingly (a) makes for sale or hire any infringing copy of a work in which copyright subsists, (b) sells or lets for hire, or by way of trade

de celle-ci, de même que toutes les planches qui ont servi ou sont destinées à servir à la confection d'exemplaires contrefaits, sont considérés comme étant la propriété du titulaire du droit d'auteur; en conséquence, celui-ci peut engager toute procédure en recouvrement de possession ou concernant l'usurpation du droit de propriété. S.R., c. 55, art. 21.

22. Lorsque, dans une action exercée pour violation du droit d'auteur sur une œuvre, le défendeur allègue pour sa défense qu'il ignorait l'existence de ce droit, le demandeur ne peut obtenir qu'une injonction à l'égard de ladite violation, si le défendeur prouve que, au moment de la commettre, il ne savait pas et n'avait aucun motif raisonnable de soupçonner que l'œuvre faisait encore l'objet d'un droit d'auteur; mais si, lors de la violation, le droit d'auteur sur cette œuvre était dûment enregistré sous le régime de la présente loi, le défendeur est considéré comme ayant eu un motif raisonnable de soupçonner que le droit d'auteur subsistait sur cette œuvre. S.R., c. 55, art. 22.

23. (1) Lorsque a été commencée la construction d'un bâtiment ou autre édifice qui constitue, ou constituerait lors de l'achèvement, une violation du droit d'auteur sur une autre œuvre, le titulaire de ce droit n'a pas qualité pour obtenir une injonction en vue d'empêcher la construction de ce bâtiment ou édifice ou d'en prescrire la démolition.

(2) Ne sont pas applicables aux cas visés par le présent article les autres dispositions de la présente loi qui prévoient que l'exemplaire contrefait de l'œuvre doit être considéré comme étant la propriété du titulaire du droit d'auteur, ou qui prescrivent des peines à imposer par voie de procédure sommaire. S.R., c. 55, art. 23.

24. Une action pour violation du droit d'auteur ne peut plus être intentée après l'expiration d'un délai de trois ans à compter de cette violation. S.R., c. 55, art. 24.

RECOURS SOMMAIRES

25. (1) Quiconque, sciemment (a) confectionne en vue de la vente ou de la location, quelque exemplaire contrefait d'une œuvre encore protégée,

exposes or offers for sale or hire any infringing copy of any such work, (c) distributes infringing copies of any such work either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, (d) by way of trade exhibits in public any infringing copy of any such work, or (e) imports for sale or hire into Canada any infringing copy of any such work, he is guilty of an offence under this Act and is liable on summary conviction to a fine not exceeding ten dollars for every copy dealt with in contravention of this section, but not exceeding two hundred dollars in respect of the same transaction; or in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(2) Where any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he is guilty of an offence under this Act, and is liable on summary conviction to a fine not exceeding two hundred dollars, or in the case of a second or subsequent offence, either to such fine or to imprisonment with or without hard labour for a term not exceeding two months.

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender that appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit. R.S., c. 55, s. 25

26. (1) Any person who, without the written consent of the owner of the copyright or of his legal representative, knowingly performs or causes to be performed in public and for

b) vend ou loue, ou commercialement met ou offre en vente ou en location un exemplaire contrefait d'une telle œuvre, c) met en circulation des exemplaires contrefaits, soit dans un but commercial, soit de façon à porter préjudice au titulaire du droit d'auteur, d) expose commercialement en public un exemplaire contrefait, ou e) importe pour la vente ou la location, au Canada, un exemplaire contrefait d'une telle œuvre, est coupable d'une infraction à la présente loi et encourt, après déclaration sommaire de culpabilité, une amende n'excédant pas dix dollars par exemplaire faussant l'objet d'une contravention au présent article, mais d'au plus deux cents dollars à l'égard de la même opération; la récidive est punie de la même amende ou d'un emprisonnement de deux mois au maximum, avec ou sans travaux forcés.

(2) Quiconque, sciemment, confectionne ou détient en sa possession une planche destinée à la fabrication d'exemplaires contrefaits d'une œuvre encore protégée, ou soiemment et dans un but de lucre personnel, fait exécuter ou représenter publiquement une telle œuvre sans le consentement du titulaire du droit d'auteur, est coupable d'une infraction prévue par la présente loi et passible, après déclaration sommaire de culpabilité, d'une amende de deux cents dollars au maximum; la récidive est punie de la même amende ou d'un emprisonnement d'au plus deux mois, avec ou sans travaux forcés.

(3) La cour devant laquelle sont portées de telles poursuites peut, que le contrefacteur présumé soit déclaré coupable ou non, ordonner que tous les exemplaires de l'œuvre ou toutes les planches en la possession du contrefacteur présumé, qu'elle estime être des exemplaires contrefaits ou des planches destinées à la fabrication d'exemplaires contrefaits, soient détruits ou remis entre les mains du titulaire du droit d'auteur, ou qu'il en soit autrement disposé au gré de la cour. S.R., c. 55, art. 25

26. (1) Quiconque, sans le consentement écrit du titulaire du droit d'auteur ou de son représentant légal, sciemment exécute ou représente, ou fait exécuter ou représenter, en

C du Tarif des douanes et cette liste s'applique en conséquence

Notas required of importer to import

(2) Except as provided in subsection (3), it shall be unlawful to import into Canada copies of any book in which copyright subsists until fourteen days after publication thereof and during such period or any extension thereof such copies shall be deemed to be included in Schedule C to the Customs Tariff, and that Schedule applies accordingly, but if within that period of fourteen days an application for a licence has been made in accordance with the provisions of this Act relating thereto, the Minister may in his discretion extend the period, and shall forthwith notify the Department of National Revenue of such extension; and the prohibition against importation shall be continued accordingly.

Exemption

(3) Notwithstanding anything in this Act it shall be lawful for any person (a) to import for his own use not more than two copies of any work published in any country adhering to the Convention; (b) to import for use by any department of the Government of Canada or any province, copies of any work, wherever published; (c) at any time before a work is printed or made in Canada to import any copies required for the use of any public library or institution of learning; (d) to import any book lawfully printed in Great Britain or in a foreign country that has adhered to the Convention and the Additional Protocol thereto set out in Schedule II and published for circulation among, and sale to the public within either; but any officer of customs, may in his discretion, require any person seeking to import any work under this section to produce satisfactory evidence of the facts necessary to establish his right so to import.

(3) Nonobstant les dispositions de la présente loi, il est loisible à toute personne

- a) d'importer pour son propre usage deux exemplaires au plus d'un ouvrage publié dans un pays adhérant à la Convention;
- b) d'importer, pour l'usage d'un département du gouvernement du Canada ou pour l'une des provinces du Canada, des exemplaires d'un ouvrage, quel que soit le lieu de publication;
- c) en tout temps avant l'impression ou la confection d'un ouvrage au Canada, d'importer les exemplaires requis pour l'usage d'une bibliothèque publique ou d'une institution d'enseignement;
- d) d'importer tout livre légalement imprimé en Grande-Bretagne ou dans un pays étranger qui a adhéré à la Convention et à son Protocole additionnel reproduits dans l'annexe II, et publié en vue d'y être mis en circulation et vendu au public; mais un fonctionnaire de la douane peut, à sa discrétion, exiger de toute personne qui cherche à importer un ouvrage sous l'autorité du présent article de lui fournir la preuve satisfaisante des faits à l'appui de son droit de faire cette importation.

(4) Les dispositions du présent article ne s'appliquent à aucune œuvre dont l'auteur est sujet britannique, autre qu'un citoyen canadien, ou dont l'auteur est sujet ou citoyen d'un pays qui a adhéré à la Convention et au Protocole additionnel de cette Convention reproduits dans l'annexe II. S.R., c. 55.

Application des dispositions relatives à la licence et à l'importation

public et dans un but de lucre personnel, et de manière à constituer une exécution ou représentation illicite, la totalité ou une partie d'une œuvre dramatique, d'un opéra ou d'une composition musicale sur laquelle un droit d'auteur existe au Canada, est coupable d'une infraction et encourt, après déclaration sommaire de culpabilité, une amende de deux cent cinquante dollars au maximum; la récidive est punie de la même amende ou d'un emprisonnement d'au plus deux mois, ou de ces deux peines à la fois.

Altération de titre ou de la signature d'un auteur dramatique ou musical

(2) Quiconque modifie ou fait modifier, retranche ou fait retrancher, le titre ou le nom de l'auteur d'une œuvre dramatique, d'un opéra ou d'une composition musicale sur laquelle un droit d'auteur existe au Canada, ou opère ou fait opérer dans une telle œuvre, sans le consentement écrit de l'auteur ou de son représentant légal, quelque changement, afin que la totalité ou une partie de cette œuvre puisse être exécutée ou représentée en public, dans un but de lucre personnel, est coupable d'une infraction et encourt, après déclaration sommaire de culpabilité, une amende de cinq cents dollars au maximum; la récidive est punie de la même amende ou d'un emprisonnement d'au plus quatre mois, ou de ces deux peines à la fois. S.R., c. 55, art. 26.

IMPORTATION D'EXEMPLAIRES

Importation de certains exemplaires défectueux

27. Les exemplaires, fabriqués hors du Canada, de toute œuvre sur laquelle un droit d'auteur subsiste, qui, s'ils étaient fabriqués au Canada, constitueraient des contre-façons, et au sujet desquels le titulaire du droit d'auteur a notifié par écrit au ministre du Revenu national son désir d'interdire l'importation au Canada, ne doivent pas être ainsi importés, et sont considérés comme insérés à la liste C du Tarif des douanes, et cette liste s'applique en conséquence. S.R., c. 55, art. 27.

Pas d'importation, lorsque le droit ou la licence de reproduire au Canada est accordé

28. (1) Lorsque le titulaire du droit d'auteur a, par licence ou autrement, accordé le droit de reproduire un livre au Canada, ou lorsqu'une licence autorisant la reproduction de ce livre a été accordée en vertu de la présente loi, il n'est pas permis, sauf selon les dispositions du paragraphe (3), d'importer au Canada des exemplaires de ce livre, et ces exemplaires sont censés compris dans la liste

Change or suppression of title or author's name

(2) Any person who makes or causes to be made any change in or suppression of the title, or the name of the author, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, or who makes or causes to be made any change in such work or composition itself without the written consent of the author or of his legal representative, in order that such work or composition may be performed in whole or in part in public for private profit, is guilty of an offence, and is liable on summary conviction to a fine not exceeding five hundred dollars, or in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding four months, or to both. R.S., c. 55, s. 26.

IMPORTATION OF COPIES

Importation of certain copyright works prohibited

27. Copies made out of Canada of any work in which copyright subsists that if made in Canada would infringe copyright and as to which the owner of the copyright gives notice in writing to the Department of National Revenue that he is desirous that such copies should not be so imported into Canada, shall not be so imported, and shall be deemed to be included in Schedule C to the Customs Tariff, and that Schedule applies accordingly. R.S., c. 55, s. 27.

No importation where right or licence to reproduce in Canada granted

28. (1) Where the owner of the copyright has by licence or otherwise granted the right to reproduce any book in Canada, or where a licence to reproduce such book has been granted under this Act, it shall not be lawful except as provided in subsection (3) to import into Canada copies of such book, and such copies shall be deemed to be included in Schedule C to the Customs Tariff, and that

Copyright Office	ADMINISTRATION	
	art. 28.	
Powers of Commissioner and Registrar	29. The Copyright Office shall be attached to the Patent Office. R.S., c. 55, s. 29.	29. Le Bureau du droit d'auteur est attaché au Bureau des brevets. S.R., c. 55, art. 29.
	30. The Commissioner of Patents shall exercise the powers conferred and perform the duties imposed upon him by this Act under the direction of the Minister, and, in the absence or inability to act of the Commissioner of Patents, the Registrar of Copyrights or other officer temporarily appointed by the Minister, may, as Acting Commissioner, exercise such powers and perform such duties under the direction of the Minister. R.S., c. 55, s. 30.	30. Sous la direction du Ministre, le commissaire des brevets d'invention exerce les pouvoirs que la présente loi lui confère et exécute les devoirs qu'elle lui impose. Le commissaire étant absent ou se trouvant incapable d'agir, le registraire des droits d'auteur ou un autre fonctionnaire temporairement nommé par le Ministre peut, à titre de commissaire suppléant, exercer ces pouvoirs et exécuter ces devoirs sous la direction du Ministre. S.R., c. 55, art. 30.
Registrar	31. There shall be a Registrar of Copyrights. R.S., c. 55, s. 31.	31. Est nommé un registraire des droits d'auteur. S.R., c. 55, art. 31.
Duties of Commissioner and Registrar	32. The Commissioner of Patents or the Registrar of Copyrights shall sign all entries made in the registers and shall sign all certificates and certified copies under the seal of the Copyright Office. R.S., c. 55, s. 32.	32. Le commissaire des brevets ou le registraire des droits d'auteur doit signer toutes les inscriptions faites dans les registres, de même que tous les certificats et copies certifiées sous le sceau du Bureau du droit d'auteur. S.R., c. 55, art. 32.
Other duties of Registrar	33. The Registrar of Copyrights shall perform such other duties in connection with the administration of this Act as may be assigned to him by the Commissioner of Patents. R.S., c. 55, s. 33.	33. Le registraire des droits d'auteur exerce, relativement à l'administration de la présente loi, les autres fonctions que peut lui attribuer le commissaire des brevets. S.R., c. 55, art. 33.
Seal	34. There shall be a seal of the Copyright Office and impressions thereof shall be judicially noticed. R.S., c. 55, s. 34.	34. Est établi un sceau du Bureau du droit d'auteur, dont les empreintes seront judiciairement reconnues. S.R., c. 55, art. 34.
Control of business and officials	35. The Commissioner of Patents shall, subject to the Minister, oversee and direct the officers, clerks and employees of the Copyright Office, and have general control of the business thereof, and shall perform such other duties as are assigned to him by the Governor in Council. R.S., c. 55, s. 35.	35. Sous la direction du Ministre, le commissaire des brevets surveille et dirige les fonctionnaires, commis et employés du Bureau du droit d'auteur, exerce l'administration générale des affaires de ce Bureau et accomplit les autres devoirs que lui attribue le gouverneur en conseil. S.R., c. 55, art. 35.
Registrar to be evidence	36. (1) Every register of copyrights under this Act is evidence of the particulars entered therein, and documents purporting to be copies of any entries therein or extracts therefrom, certified by the Commissioner of Patents or the Registrar of Copyrights and sealed with the seal of the Copyright Office, shall be admissible in evidence in all courts without further proof or production of the	36. (1) Tout registre des droits d'auteur, sous le régime de la présente loi, constitue une preuve des détails y inscrits, et sont admissibles comme preuve devant tous les tribunaux, sans autre preuve ni production des originaux, les pièces paraissant être des copies d'inscriptions faites dans ce registre ou d'extraits de ce registre, certifiées par le commissaire des brevets ou par le registraire

26	Chap. C-30		Droit d'auteur	
	originale.		des droits d'auteur, portant le sceau du Bureau du droit d'auteur.	
Certificate to be evidence	(2) A certificate of registration of copyright in a work is evidence that copyright subsists in the work and that the person registered is the owner of such copyright. R.S., c. 55, s. 36.	(2) Un certificat d'enregistrement de droit d'auteur sur une œuvre est une preuve que cette œuvre fait l'objet d'un droit d'auteur et que la personne portée à l'enregistrement est le titulaire de ce droit d'auteur. S.R., c. 55, art. 36.	Certificat fait preuve	
			ENREGISTREMENT	
Registers of copyrights	37. (1) The Minister shall cause to be kept at the Copyright Office, books to be called the Registers of Copyrights, in which may be entered the names or titles of works and the names and addresses of authors, and such other particulars as may be prescribed.	37. (1) Le Ministre doit faire tenir, au Bureau du droit d'auteur, des livres appelés registres des droits d'auteur, pour l'inscription des noms ou titres des ouvrages et des noms et adresses des auteurs, ainsi que des autres détails qui peuvent être prescrits.	Registres des droits d'auteur	
	(2) The author or publisher of, or the owner of, or other person interested in the copyright in any work may cause the particulars respecting the work to be entered in the register.	(2) L'auteur, l'éditeur ou le propriétaire d'une œuvre, ou une autre personne intéressée dans le droit d'auteur d'une œuvre, peut en faire inscrire les détails dans le registre.	L'auteur fait inscrire	
Single entry sufficient	(3) In the case of an encyclopædia, newspaper, review, magazine or other periodical work, or work published in a series of books or parts, it is not necessary to make a separate entry for each number or part, but a single entry for the whole work is sufficient.	(3) Dans le cas d'une encyclopédie, d'un journal, revue, magazine ou autre publication périodique, ou d'une œuvre publiée en une série de tomes ou de volumes, il n'est pas nécessaire de faire une inscription distincte pour chaque numéro ou tome, mais une seule inscription suffit pour l'œuvre entière.	Une seule inscription suffit	
	(4) There shall also be kept at the Copyright Office such indices of the registers established under this section as may be prescribed.	(4) Il doit être aussi tenu, au Bureau du droit d'auteur, les index qui peuvent être prescrits, pour les registres établis en vertu du présent article.	Index	
Inspection and extracts	(5) The registers and indices established under this section shall be in the prescribed form, and shall at all reasonable times be open to inspection, and any person is entitled to take copies of or make extracts from any such register.	(5) Les registres et index établis en vertu du présent article doivent être conformes à la formule prescrite et être, à toute heure raisonnable, accessibles au public; toute personne a le droit de copier ou de tirer des extraits de ces registres.	Avec	
	(6) Any registration made under the Copyright Act, chapter 70 of the Revised Statutes of Canada, 1906, has the same force and effect as if made under this Act	(6) Tout enregistrement effectué en vertu de la Loi des droits d'auteur, chapitre 70 des Statuts révisés du Canada de 1906, a la même valeur et le même effet que s'il était effectué en vertu de la présente loi.	Avec enregistrement effectif	
Submitting copyright	(7) Any work in which copyright operative in Canada, subsisted immediately before the 1st day of January 1924, is registrable under this Act. R.S., c. 55, s. 37	(7) Est enregistrable aux termes de la présente loi toute œuvre sur laquelle existait un droit d'auteur, en vigueur au Canada, immédiatement avant le 1er janvier 1924. S.R., c. 55, art. 37	Droit d'auteur existant	
	38. (1) The application for the registration of a copyright may be made in the name of	38. (1) La demande d'enregistrement d'un droit d'auteur peut être faite au nom de	Qui peut faire la demande d'enregistrement	

	the author or of his legal representatives, by any person purporting to be agent of such author or legal representatives.		
Recovery of damages	(2) Any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable in any court of competent jurisdiction. R.S., c. 55, s. 38.	Recouvrement de dommages	(2) Tout dommage causé par une usurpation, intentionnelle ou non, d'une semblable autorisation est recouvrable devant tout tribunal compétent. S.R., c. 55, art. 38.
Form of application	39. Application for registration of a copyright shall be made in accordance with the prescribed form, and shall be deposited at the Copyright Office together with the prescribed fee. R.S., c. 55, s. 39.	Formule de demande d'enregistrement	39. La demande d'enregistrement d'un droit d'auteur doit être effectuée conformément à la formule prescrite et être déposée au Bureau du droit d'auteur avec la taxe prescrite. S.R., c. 55, art. 39.
Registration of a grant of interest in copyright	40. (1) Any grant of an interest in a copyright, either by assignment or licence, may be registered in the Registers of Copyrights at the Copyright Office, upon production to the Copyright Office of the original instrument and a certified copy thereof, and payment of the prescribed fee.	Enregistrement d'un droit d'auteur	40. (1) Toute concession d'un intérêt dans un droit d'auteur, par cession ou par licence, peut être enregistrée dans les registres des droits d'auteur au Bureau du droit d'auteur, sur production audit Bureau de l'acte original et d'une copie certifiée de cet acte, et sur paiement de la taxe prescrite.
Certificate of registration	(2) The certified copy shall be retained at the Copyright Office and the original shall be returned to the person depositing it, with a certificate of its registration endorsed thereon or affixed thereto.	Certificat d'enregistrement	(2) La copie certifiée doit être gardée au Bureau du droit d'auteur, et l'acte original doit être rendu à la personne qui en a fait le dépôt, avec un certificat d'enregistrement apposé ou joint à l'acte rendu.
When grant is void	(3) Any grant of an interest in a copyright, either by assignment or licence, shall be adjudged void against any subsequent assignee or licensee for valuable consideration without actual notice, unless such prior assignment or licence is registered in the manner prescribed by this Act before the registering of the instrument under which such subsequent assignee or licensee claims.	Annulation de la concession	(3) Toute concession d'un intérêt dans un droit d'auteur, par cession ou par licence, doit être déclarée nulle à l'encontre d'un cessionnaire ou porteur de licence subéquent, qui le devient moyennant considération valable sans connaissance de la cession ou licence antérieure, à moins que celle-ci n'ait été enregistrée de la manière prescrite par la présente loi avant l'enregistrement de l'instrument sur lequel le cessionnaire ou porteur de licence subéquent fonde sa réclamation.
Rectification of register by the Court	(4) The Exchequer Court of Canada or a judge thereof may, on application of the Registrar of Copyrights or of any person aggrieved, order the rectification of any register of Copyrights under this Act by (a) the making of any entry wrongly omitted to be made in the register, (b) the expunging of any entry wrongly made in or remaining on the register, or (c) the correction of any error or defect in the register; and any such rectification of the register shall be retroactive from such date as the court or judge thereof may order.	Rectification des registres par la Cour	(4) La Cour de l'Échiquier du Canada, ou un juge de cette cour, peut, sur demande du registraire des droits d'auteur ou sur demande de toute personne lésée, ordonner la rectification d'un enregistrement de droit d'auteur effectué en vertu de la présente loi, a) en y faisant une inscription qui a été irrégulièrement omise des registres, b) en radiant une inscription qui, irrégulièrement, a été faite ou resté dans les registres, ou c) en corrigeant une erreur ou un défaut d'inscription dans les registres; et pareille rectification des registres a effet rétroactif à compter de la date que peut

28	Exécution of instruments in United Kingdom, etc	(5) Any instrumenta referred to in this section may be executed, subscribed or acknowledged at any place in the United Kingdom or in any of Her Majesty's Realms and Territories, or in the United States, by the assignor, grantor, licensor or mortgagor, before any notary public, commissioner, other official or the judge of any court, who is authorized by law to administer oaths or perform notarial acts in such place, and who also subscribes his signature and affixes thereto or impresses thereon his official seal or the seal of the court of which he is such judge.	Exécution des instruments dans le Royaume-Uni, etc	(5) Les actes auxquels se rapporte le présent article peuvent être exécutés, souscrits ou attestés en tout endroit du Royaume-Uni ou des royaumes et territoires de Sa Majesté, ou des États-Unis d'Amérique, par le cédant, le concessionnaire, l'octroyeur de licence ou le débiteur sur gage, devant un notaire public, un commissaire ou un autre fonctionnaire ou un juge, autorisé par la loi à faire prêter serment ou à dresser des actes notariés en cet endroit, qui appose à l'instrument sa signature et son sceau officiel ou celui de son tribunal.
	Exécution of instruments in foreign countries	(6) Any such instrument may be executed, subscribed or acknowledged by the assignor, grantor, licensor or mortgagor, in any other foreign country before any notary public, commissioner, or other official or the judge of any court of such foreign country, who is authorized to administer oaths or perform notarial acts in such foreign country and whose authority shall be proved by the certificate of a diplomatic or consular officer of the United Kingdom or of Canada exercising his functions in such foreign country.	Exécution des instruments dans les pays étrangers	(6) Un tel acte peut être exécuté, souscrit ou attesté par le cédant, le concessionnaire, l'octroyeur de licence ou le débiteur sur gage, en tout autre pays étranger, devant un notaire public, un commissaire ou un autre fonctionnaire ou un juge de ce pays étranger, autorisé à faire prêter serment ou à dresser des actes notariés en ce pays étranger, dont l'autorité est certifiée par un agent diplomatique ou consulaire du Royaume-Uni ou du Canada exerçant ses fonctions dans ce pays étranger.
	Seals to be prima facie evidence	(7) Such official seal or seal of the court or such certificate of a diplomatic or consular officer is prima facie evidence of the execution of the instrument; and the instrument with such seal or certificate affixed or attached thereto shall be admissible as evidence in any action or proceeding brought under this Act without further proof.	Seaux notariés ou autres prouvant l'acte	(7) Un semblable sceau officiel, sceau de tribunal ou certificat d'un agent diplomatique ou consulaire constitue une preuve <i>prima facie</i> de l'exécution de l'acte; l'acte portant un tel sceau ou certificat fait foi dans toute action ou procédure intentée en vertu de la présente loi, sans autre preuve.
	Onal testimony	(8) The provisions of subsections (5) and (6) shall be deemed to be permissive only, and the execution of any documents referred to in this section may in any case be proved by oral testimony. R.S., c. 55, s. 40.	Témoignage oral	(8) Les dispositions énoncées aux paragraphes (5) et (6) doivent être considérées comme facultatives seulement, et l'exécution de tout document mentionné au présent article peut, dans tous les cas, être prouvée par témoignage oral. S.R., c. 55, art. 40.
	Registration fees	41. (1) The following fees shall be paid to the Minister in advance before an application for any of the following purposes is received, that is to say:	TAXES	41. (1) Les taxes suivantes doivent être payées au Ministre avant qu'il accueille les demandes relatives aux objets spécifiés en la présente loi, savoir:

of the right or interest is entitled at his option either

- (a) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration, or
- (b) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment;

and the notice above referred to must be given not more than one year or less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or if he cannot with reasonable diligence be found, advertised in the *Canada Gazette*.

Envoi

- (3) Where any person has, before the 1st day of January 1924, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner that at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section diminishes or prejudices any rights or interests arising from or in connection with such action that are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

"Author"

- (4) For the purposes of this section, "author" includes the legal representatives of a deceased author.

Works made before the Act in force

- (5) Subject to this Act, copyright shall not subsist in any work made before the 1st day of January 1924 otherwise than under, and in accordance with, the provisions of this section.

Enregistrement d'un droit d'auteur	\$2 00
Enregistrement d'une cession de droit d'auteur pour chaque droit d'auteur cédé, y compris le certificat d'enregistrement	1 00
Certificat d'enregistrement d'un droit d'auteur	1 00
Copies certifiées de documents ou extraits: Pour chaque folio de cent mots	0.10

Autres taxes

- (2) Peuvent être établies et imposées par décret les taxes supplémentaires ou autres, nécessaires aux fins de la présente loi.

Pour tous services

- (3) Le paiement des taxes prévues par le présent article couvre tous les services rendus par le Ministre ou par une personne à son emploi.

- (4) Nul n'est dispensé d'acquitter les taxes ou frais exigibles pour les services rendus à son égard sous l'autorité de la présente loi.

Emploi des taxes

- (5) Les taxes perçues en vertu de la présente loi doivent être versées au receveur général, et font partie du Fonds du revenu consolidé. S.R., c. 55, art. 41; 1908-09, c. 28, art. 105.

Droits substitués

- 42. (1) Quoique jouit, immédiatement avant le 1er janvier 1924, à l'égard d'une œuvre, d'un droit spécifié dans la première colonne de l'annexe I, ou d'un intérêt dans un droit semblable, bénéficiaire à partir de cette date, du droit substitué indiqué dans la seconde colonne de ladite annexe, ou du même intérêt dans le droit substitué, à l'exclusion de tout autre droit ou intérêt, ledit droit substitué durera aussi longtemps qu'il aurait duré si la présente loi avait été en vigueur au moment où l'œuvre a été créée et que celle-ci eût été admise au droit d'auteur sous son régime.

Lorsque l'auteur a cédé son droit

- (2) Si l'auteur d'une œuvre sur laquelle un droit mentionné à la première colonne de l'annexe I subsiste le 1er janvier 1924 a, avant cette date, cédé le droit ou concédé un intérêt dans ce droit pour toute la durée de celui-ci, alors, à la date où, n'eût été l'adoption de la présente loi, le droit aurait expiré, le droit substitué conféré par le présent article doit, en l'absence de toute convention expresse, passer à l'auteur de l'œuvre et tout intérêt y afférent ayant pris naissance avant le 1er janvier 1924 et subsistant à cette date doit prendre fin; mais la personne qui, immédiatement avant la date où le droit aurait ainsi expiré, était le titulaire du droit ou de l'intérêt

Registering a copyright	\$2 00
Registering an assignment of copyright in respect of each copyright assigned, including certificate of registration	1 00
Certificate of registration of copyright	1 00
Certified copies of documents or extracts: For every folio of one hundred words	0.10

Further fees

- (2) Such further or other fees as may be necessary for the purposes of this Act may be established and imposed by order in council.

For all services

- (3) The fees payable under this section cover all services by the Minister or any person employed by him.

No exemption

- (4) No person is exempt from the payment of any fee or charge payable in respect of any services performed under this Act for such person.

Deposit of fees

- (5) All fees received under this Act shall be paid over to the Receiver General, and form part of the Consolidated Revenue Fund. R.S., c. 55, s. 41; 1908-09, c. 28, s. 105.

Substitution of substituted right

- 42. (1) Where any person is immediately before the 1st day of January 1924 entitled to any such right as is specified in the first column of Schedule I, or to any interest in such a right, he is, as from that date, entitled to the substituted right set forth in the second column of that Schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made, and the work had been one entitled to copyright thereunder.

Where author has assigned the right

- (2) Where the author of any work in which any such right as is specified in the first column of Schedule I subsists on the 1st day of January 1924 has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired, the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the 1st day of January 1924 and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner

est admise, à son choix,

- a) en donnant l'avis ci-après mentionné, à recevoir une cession du droit ou la concession d'un intérêt semblable dans ce droit pour la période non expirée de la protection moyennant la considération qui, en l'absence d'une convention, peut être fixée par arbitrage, ou,

- b) sans une telle cession ou concession, à continuer de reproduire, exécuter ou représenter l'œuvre de la même manière qu'avant cette date sous réserve du paiement à l'auteur, si celui-ci l'exige dans les trois ans après la date où le droit aurait ainsi expiré, des tantièmes qui, en l'absence de convention, peuvent être fixés par arbitrage, ou sans paiement de ce genre, si l'œuvre est incorporée dans un recueil dont le propriétaire est le titulaire du droit ou de l'intérêt; l'avis ci-dessus mentionné doit être donné dans le délai d'un an plus une année et d'un mois six mois avant la date où le droit aurait ainsi pris fin, et être adressé, par lettre recommandée, à l'auteur; si celui-ci reste introuvable, malgré les diligences raisonnables, l'avis doit être publié dans la *Gazette du Canada*.

Remarque

- (3) Lorsque, avant le 1er janvier 1924, une personne a pris quelque mesure qui lui a occasionné des dépenses ou responsabilités, relativement à la reproduction, l'exécution ou la représentation alors licite d'une œuvre, ou dans le but ou en vue de la reproduction, exécution ou représentation d'une œuvre à une époque où elles auraient été permises n'eût été l'adoption de la présente loi, rien dans le présent article ne diminue ou n'atteint défavorablement les droits ou intérêts nés ou résultant d'une telle mesure et subsistants et valables à cette date, à moins que l'acquéreur, en vertu du présent article, du droit de défendre une reproduction, exécution ou représentation semblable, ne consente à payer la compensation qui, à défaut d'entente, peut être déterminée par arbitrage.

- (4) Pour les fins du présent article, l'expression "auteur" comprend les représentants légaux d'un auteur décédé.

- (5) Sous réserve de la présente loi, le droit d'auteur sur les œuvres créées avant le 1er janvier 1924 subsiste uniquement en vertu et en conformité des prescriptions du présent

R.S., c. 55, s. 42.

article. S.R., c. 55, art. 42.

LES ERREURS D'ÉCRITURE N'ENTRAÎNENT PAS L'INVALIDATION

43. Clerical errors that occur in the framing or copying of an instrument drawn by any officer or employee in or of the Copyright Office shall not be construed as invalidating such instrument, but when discovered they may be corrected under the authority of the Minister. R.S., c. 55, s. 43.

43. Les erreurs d'écriture qui se glissent dans la rédaction ou dans la copie d'une pièce quelconque, faite par un fonctionnaire ou par un employé du Bureau du droit d'auteur ou au Bureau du droit d'auteur ne doivent pas être considérées comme invalidant cette pièce; mais, lorsqu'elles sont découvertes, elles peuvent être corrigées sous l'autorité du Ministre. S.R., c. 55, art. 43.

CONVENTION OF BERNE

47. The Governor in Council may take such action as may be necessary to secure the adherence of Canada to the revised Convention of Berne, signed the 13th day of November 1908, and the Additional Protocol thereto signed at Berne the 20th day of March 1914, set out in Schedule II. R.S., c. 55, s. 47.

47. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée de Berne, signée le 13 novembre 1908, et au Protocole additionnel de cette Convention signé à Berne, le 20 mars 1914, énoncés à l'annexe II. S.R., c. 55, art. 47.

RULES AND REGULATIONS

44. (1) The Governor in Council may make such rules and regulations, and prescribe such forms as appear to him necessary and expedient for the purposes of this Act.

(2) The Governor in Council may make orders for altering, revoking, or varying any order in council made under this Act, but any order made under this section does not affect prejudicially any rights or interests acquired or accrued at the date when the order comes into operation; and any such order shall provide for the protection of such rights and interests. R.S., c. 55, s. 44.

(1) Le gouverneur en conseil peut établir les règlements et prescrire les formules qui lui paraissent nécessaires et opportuns pour l'application de la présente loi.

(2) Le gouverneur en conseil peut prendre les décrets destinés à changer, révoquer ou modifier tout décret établi en vertu de la présente loi. Toutefois, aucun décret pris en vertu du présent article ne porte atteinte ou préjudice aux droits ou intérêts acquis ou nés au moment de la mise à exécution dudit décret, ces droits et intérêts devant y trouver protection. S.R., c. 55, art. 44.

RÈGLEMENTS

44. (1) Le gouverneur en conseil peut établir les règlements et prescrire les formules qui lui paraissent nécessaires et opportuns pour l'application de la présente loi.

(2) Le gouverneur en conseil peut prendre les décrets destinés à changer, révoquer ou modifier tout décret établi en vertu de la présente loi. Toutefois, aucun décret pris en vertu du présent article ne porte atteinte ou préjudice aux droits ou intérêts acquis ou nés au moment de la mise à exécution dudit décret, ces droits et intérêts devant y trouver protection. S.R., c. 55, art. 44.

GENERAL

45. No person is entitled to copyright or any similar right in any literary, dramatic, musical or artistic work otherwise than under and in accordance with this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence. R.S., c. 55, s. 45.

45. Personne ne peut revendiquer un droit d'auteur ou un droit similaire quelconque sur une œuvre littéraire, dramatique, musicale ou artistique, autrement qu'en vertu et en conformité de la présente loi ou de tout autre statut en vigueur à l'époque; mais le présent article ne doit nullement être interprété comme abrogeant un droit ou une juridiction quelconque permettant d'interdire un abus de confiance. S.R., c. 55, art. 45.

DISPOSITIONS GÉNÉRALES

45. Personne ne peut revendiquer un droit d'auteur ou un droit similaire quelconque sur une œuvre littéraire, dramatique, musicale ou artistique, autrement qu'en vertu et en conformité de la présente loi ou de tout autre statut en vigueur à l'époque; mais le présent article ne doit nullement être interprété comme abrogeant un droit ou une juridiction quelconque permettant d'interdire un abus de confiance. S.R., c. 55, art. 45.

46. (1) This Act does not apply to designs capable of being registered under the Industrial Design Act, except designs that, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

(2) General rules, under the Industrial Design Act, may be made for determining the

46. (1) La présente loi ne s'applique pas aux dessins susceptibles d'être enregistrés en vertu de la Loi sur les dessins industriels, à l'exception des dessins qui, tout en pouvant être enregistrés de cette manière, ne servent pas ou ne sont pas destinés à servir de modèles ou d'échantillons, pour être multipliés par un procédé industriel quelconque.

(2) En vertu de la Loi sur les dessins industriels, il peut être édicté un règlement

conditions under which a design shall be deemed to be used for such purposes as aforesaid. R.S., c. 55, s. 46.

général pour déterminer les conditions sous lesquelles un dessin doit être considéré comme étant utilisé dans le but précité. S.R., c. 55, art. 46.

CONVENTION OF BERNE

47. The Governor in Council may take such action as may be necessary to secure the adherence of Canada to the revised Convention of Berne, signed the 13th day of November 1908, and the Additional Protocol thereto signed at Berne the 20th day of March 1914, set out in Schedule II. R.S., c. 55, s. 47.

47. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée de Berne, signée le 13 novembre 1908, et au Protocole additionnel de cette Convention signé à Berne, le 20 mars 1914, énoncés à l'annexe II. S.R., c. 55, art. 47.

PERFORMING RIGHTS SOCIETIES

48. (1) Each society, association or company that carries on in Canada the business of acquiring copyrights of dramatico-musical or musical works or of performing rights therein, and deals with or in the issue or grant of licences for the performance in Canada of dramatico-musical or musical works in which copyright subsists, shall, from time to time, file with the Minister at the Copyright Office lists of all dramatico-musical and musical works, in current use in respect of which such society, association or company has authority to issue or grant performing licences or to collect fees, charges or royalties for or in respect of the performance of its works in Canada.

(1) Chaque association, société ou compagnie exerçant au Canada des opérations qui consistent à acquérir des droits d'auteur sur des œuvres musicales ou dramatico-musicales, ou les droits d'exécution qui en dérivent, et des opérations qui consistent à émettre ou à accorder des licences pour l'exécution, au Canada, d'œuvres musicales ou dramatico-musicales sur lesquelles un droit d'auteur subsiste, doit périodiquement déposer chez le Ministre, au Bureau du droit d'auteur, des listes de toutes les œuvres musicales et dramatico-musicales d'exécution courante à l'égard desquelles cette association, société ou compagnie possède l'autorité d'émettre ou d'accorder des licences d'exécution, ou de percevoir des honoraires, des redevances ou des tantièmes pour ou concernant l'exécution de ses œuvres au Canada.

Tariffs of fees, charges or royalties to be filed annually

(2) Each such society, association or company shall, on or before the 1st day of November in each and every year, file, with the Minister at the Copyright Office statements of all fees, charges or royalties which such society, association or company proposes during the next ensuing calendar year to collect in compensation for the issue or grant of licences for or in respect of the performance of its works in Canada.

(2) Cette association, société ou compagnie doit, le ou avant le 1er novembre de chaque année, déposer chez le Ministre, au Bureau du droit d'auteur, des états de tous honoraires, redevances ou tantièmes qu'elle se propose de percevoir, durant l'année civile suivante, en paiement des licences qu'elle émettra ou accordera pour l'exécution de ses œuvres au Canada.

Enforcement of remedies where non-compliance

(3) Where any such society, association or company refuses or neglects to file with the Minister at the Copyright Office the statement or statements prescribed by subsection (2), no action or other proceeding to enforce any civil or summary remedy for infringement of the performing right in any dramatico-musical or musical work claimed by any such association,

(3) Si cette association, société ou compagnie refuse ou néglige de déposer chez le Ministre, au Bureau du droit d'auteur, l'état ou les états indiqués au paragraphe (2), aucune poursuite ou autre procédure tendant à faire appliquer un recours civil ou sommaire contre la violation d'un droit d'exécution subsistant dans une œuvre dramatico-musicale

34	Chap. C-30	Droit d'auteur
Aut la advisory capacity	(6) The Copyright Appeal Board may call to its aid in an advisory capacity the services of any person having technical or special knowledge of the matters in question before it and may pay such person such fees or other remuneration and actual travelling and living expenses as may be approved by the Minister.	(6) La Commission d'appel du droit d'auteur peut appeler, pour l'aider à titre de conseiller, toute personne possédant des connaissances techniques ou spéciales dans les affaires soumises à la Commission, et elle peut verser à cette personne les honoraires ou autre rémunération, ainsi que les frais réels de déplacement et de subsistance que le Ministre peut approuver.
Board to consider statements and objections	(6) As soon as practicable after the Minister has referred to the Copyright Appeal Board the statements of proposed fees, charges or royalties as herein provided and the objections, if any, received in respect thereto, the Board shall proceed to consider the statements and the objections, if any, and may itself, notwithstanding that no objection has been lodged, take notice of any matter that in its opinion is one for objection; the Board shall, in respect of every objection, advise the society, association or company concerned of the nature of the objection and shall afford it an opportunity of replying thereto.	(6) Aussitôt que possible après que le Ministre a déferé à la Commission d'appel du droit d'auteur les énoncés des honoraires, redevances ou tantièmes à percevoir, ainsi que les objections, s'il en est, qu'il a reçues contre ces énoncés, la Commission procède à l'examen des énoncés et des objections, s'il en est, et peut elle-même, sans qu'aucune objection n'ait été présentée, s'arrêter aux points qui, à son avis, donnent lieu à objections. A l'égard de chaque objection, la Commission doit aviser l'association, société ou compagnie intéressée de la nature de l'objection soulevée, et lui procurer l'occasion d'y répondre.
Board performs in place other than theatre	(7) In respect of public performances by means of any radio receiving set or gramophone in any place other than a theatre that is ordinarily and regularly used for entertainment to which an admission charge is made, no fees, charges or royalties shall be collectable from the owner or user of the radio receiving set or gramophone, but the Copyright Appeal Board shall, so far as possible, provide for the collection in advance from radio broadcasting stations or gramophone manufacturers, as the case may be, of fees, charges and royalties appropriate to the new conditions produced by the provisions of this subsection and shall fix the amount of the same; in so doing the Board shall take into account all expenses of collection and other outlays, if any, saved or savable by, for or on behalf of the owner of the copyright or performing right concerned or his agents, in consequence of this subsection.	(7) En ce qui concerne les exécutions publiques au moyen d'un appareil radiophonique récepteur ou d'un phonographe, en tout endroit autre qu'un théâtre servant ordinairement et régulièrement de lieu d'amusement où est exigé un prix d'entrée, aucun honoraire, aucune redevance ni aucun tantième n'est exigible du propriétaire ou usager de l'appareil radiophonique récepteur ou du phonographe; mais la Commission d'appel du droit d'auteur doit, autant que possible, pourvoir à la perception anticipée, des radio-postes émetteurs ou des fabricants de phonographes, suivant le cas, des honoraires, redevances ou tantièmes appropriés aux nouvelles conditions nées des dispositions du présent paragraphe, et elle doit en déterminer le montant. En ce faisant, la Commission doit tenir compte de tous frais de recouvrement et autres déboursés, s'il en est, épargnés ou pouvant être épargnés par le détenteur concerné du droit d'auteur ou du droit d'exécution, ou par ses mandataires, ou pour eux ou en leur faveur, en conséquence du présent paragraphe.
Board may make alterations	(8) Upon the conclusion of its consideration, the Copyright Appeal Board shall make such alterations in the statements as it may think fit and shall transmit the statements thus altered or revised or unchanged to the Minister certified as the approved statements; the	(8) Lorsqu'elle a terminé son examen, la Commission d'appel du droit d'auteur apporte aux énoncés les modifications qui lui semblent opportunes, puis elle transmet au Ministre les énoncés ainsi modifiés, révisés ou maintenus, lesquels sont certifiés comme étant des énoncés

Business to be published	49. (1) As soon as practicable after the receipt of the statements prescribed by subsection 48(2), the Minister shall publish them in the <i>Canada Gazette</i> and shall notify that any person having any objection to the proposals contained in the statements must lodge particulars in writing of his objection with the Minister at the Copyright Office on or before a day to be fixed in the notice, not being earlier than twenty one days after the date of publication in the <i>Canada Gazette</i> of such notice.	Les énoncés doivent être publiés
Business to be referred to the Board	(2) As soon as practicable after the date fixed in the notice referred to in subsection (1), the Minister shall refer the statements and any objection received in response to the notice to a Board to be known as the Copyright Appeal Board. R.S., c. 55, s. 49.	Les énoncés sont déferés à la Commission
Board constituted	50. (1) The Copyright Appeal Board shall consist of three members, who shall be appointed by the Governor in Council.	Composition de la Commission
Chairman and members	(2) One of the members of the Copyright Appeal Board shall be a person who holds or has held high judicial office and he shall be the Chairman of the Board; the other two members of the Board shall be selected from officers of the public service of Canada.	Président et membres
Travelling and living expenses	(3) No fees or emoluments of any kind shall be payable to, or received by, any member of the Board in connection with services rendered as such member, but the members shall be paid actual travelling and living expenses necessarily incurred in connection with the business of the Board.	Dépenses de voyage et de séjour
Rules and provisions	(4) Subject to this Act, the Copyright Appeal Board may make rules and provisions respecting	Règles et prescriptions

1308	Chap. C-30	Droit d'auteur
1310	(8) Upon the conclusion of its consideration, the Copyright Appeal Board shall make such alterations in the statements as it may think fit and shall transmit the statements thus altered or revised or unchanged to the Minister certified as the approved statements; the	(8) Lorsqu'elle a terminé son examen, la Commission d'appel du droit d'auteur apporte aux énoncés les modifications qui lui semblent opportunes, puis elle transmet au Ministre les énoncés ainsi modifiés, révisés ou maintenus, lesquels sont certifiés comme étant des énoncés

Minister shall thereupon as soon as practicable after the receipt of such statements so certified publish them in the Canada Gazette and furnish the society, association or company concerned with a copy of them.

(9) The statements of fees, charges or royalties so certified as approved by the Copyright Appeal Board shall be the fees, charges or royalties which the society, association or company concerned may respectively lawfully sue for or collect in respect of the issue or grant by it of licences for the performance of all or any of its works in Canada during the ensuing calendar year in respect of which the statements were filed as aforesaid.

(10) No such society, association or company shall have any right of action or any right to enforce any civil or summary remedy for infringement of the performing right in any dramatic-musical or musical work claimed by any such society, association or company against any person who has tendered or paid to such society, association or company the fees, charges or royalties that have been approved as aforesaid. R.S., c. 55, s. 50.

CONVENTION OF ROME

§1. The Governor in Council may take such action as may be deemed necessary to secure the adherence of Canada to the revised Convention for the protection of artistic and literary works which was signed at Rome the 2nd day of June 1928 and which is set out in Schedule III. R.S., c. 55, s. 53.

[See schedule on the following page.]

CONVENTION OF ROME

Adherence to Rome Copyright Convention

§1. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée pour la protection des œuvres littéraires et artistiques, signée à Rome, le 2 juin 1928, et dont le texte constitue l'annexe III. R.S., c. 55, art. 53.

[Voir l'annexe à la page suivante.]

CONVENTION DE ROME

Adhésion à la Convention de Rome sur le droit d'auteur

§1. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée pour la protection des œuvres littéraires et artistiques, signée à Rome, le 2 juin 1928, et dont le texte constitue l'annexe III. R.S., c. 55, art. 53.

[Voir l'annexe à la page suivante.]

homologués. Aussitôt que possible après la réception de ces états ainsi homologués, le Ministre les fait publier dans la Gazette du Canada et en fournit une copie à l'association, société ou compagnie intéressée.

(9) Les états des honoraires, redevances ou tantièmes ainsi certifiés comme homologués par la Commission d'appel du droit d'auteur sont les honoraires, redevances ou tantièmes que l'association, société ou compagnie intéressée peut respectivement réclamer ou percevoir légalement en paiement des licences qu'elle a émises ou accordées pour l'exécution de toutes ses œuvres au Canada, ou de l'une quelconque d'entre elles, durant l'année civile suivante et à l'égard desquelles les états ont été déposés comme il est susdit.

(10) Aucune pareille association, société ou compagnie n'a le droit de pour suivre ou de demander l'application d'un recours civil ou sommaire contre la violation d'un droit d'exécution subsistant dans une œuvre dramatico-musicale ou musicale, réclamer par cette association, société ou compagnie contre quiconque a payé ou offert de lui payer les honoraires, redevances ou tantièmes homologués comme il est susdit. S.R., c. 55, art. 50.

CONVENTION DE ROME

Adhésion à la Convention de Rome sur le droit d'auteur

§1. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée pour la protection des œuvres littéraires et artistiques, signée à Rome, le 2 juin 1928, et dont le texte constitue l'annexe III. R.S., c. 55, art. 53.

[Voir l'annexe à la page suivante.]

CONVENTION DE ROME

Adhésion à la Convention de Rome sur le droit d'auteur

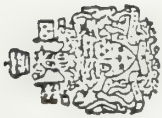
§1. Le gouverneur en conseil peut prendre les mesures nécessaires pour assurer l'adhésion du Canada à la Convention révisée pour la protection des œuvres littéraires et artistiques, signée à Rome, le 2 juin 1928, et dont le texte constitue l'annexe III. R.S., c. 55, art. 53.

[Voir l'annexe à la page suivante.]

Fees, charges and royalties which may be collected

Right of action barred if approved fees, charges or royalties have been tendered or paid

Adherence to Rome Copyright Convention



CHAPTER 10 (2nd Supp.)		CHAPITRE 10 (2 ^e Supp.)	
An Act respecting the Federal Court of Canada	Loi concernant la Cour fédérale du Canada	[1970-71-72, c. 1]	TITRE ABRÉGÉ
Short title	1. This Act may be cited as the <i>Federal Court Act</i> .	1. La présente loi peut être citée sous le titre abrégé le titre: <i>Loi sur la Cour fédérale</i> .	

CHAPTER 4 (2nd Supp.)		CHAPITRE 4 (2 ^e Supp.)	
R.S., c. C-30; c. 10(2nd Supp.), s. 63	An Act to amend the Copyright Act	Loi modifiant la Loi sur le droit d'auteur	[1970-71-72, c. 60]
Copyright in records and contrivances	1. Subsection 4(3) of the <i>Copyright Act</i> , chapter C-30 of the Revised Statutes of Canada, 1970, is repealed and the following substituted therefor:	1. Le paragraphe 4(3) de la <i>Loi sur le droit d'auteur</i> , chapitre C-30 des Statuts révisés du Canada de 1970, est abrogé et remplacé par ce qui suit:	[1970-71-72, c. 60] art. 65
Nature of copyright	(3) Subject to subsection (4), copyright shall subsist for the term hereinafter mentioned in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical, literary or dramatic works.	(3) Sous réserve du paragraphe (4), le droit d'auteur existe pendant le temps ci-après mentionné, à l'égard des enregistrements, rouleaux perforés et autres organes à l'aide desquels des sons peuvent être reproduits mécaniquement, comme si ces organes constituaient des œuvres musicales, littéraires ou dramatiques.	[1970-71-72, c. 60] art. 65
Nature of copyright	(4) Notwithstanding subsection 3(1), for the purposes of this Act "copyright" means, in respect of any record, perforated roll or other contrivance by means of which sounds may be mechanically reproduced, the sole right to reproduce any such contrivance or any substantial part thereof in any material form."	(4) Nonobstant le paragraphe 3(1), aux fins de la présente loi, le «droit d'auteur» désigne, relativement à une enregistrement, un rouleau perforé ou autre organe à l'aide desquels des sons peuvent être reproduits mécaniquement, le droit exclusif de reproduire un tel organe ou toute partie substantielle de celui-ci sous quelque forme matérielle que ce soit.»	[1970-71-72, c. 60] art. 65

25-26 ELIZABETH II

25-26 ELIZABETH II

23-24 ELIZABETH II

23-24 ELIZABETH II

CHAPTER 28

CHAPTER 28

CHAPTER 50

CHAPTER 50

Loi visant à corriger certaines anomalies et incompatibilités, certains archaïsmes et certaines erreurs mineures et évidentes des Statuts revivés du Canada de 1970 et de certaines lois postérieures

An Act to correct certain anomalies, inconsistencies, archaisms, errors and other matters of a non-controversial and uncomplicated nature in the Revised Statutes of Canada, 1970 and other Acts subsequent to 1970

Loi concernant l'exportation en provenance du Canada de biens culturels et l'importation à destination du Canada de biens culturels exportés illégalement

An Act respecting the export from Canada of cultural property and the import into Canada of cultural property illegally exported from foreign states

[Sanctionnée le 29 juin 1977]

[Assented to 29th June, 1977]

[Sanctionnée le 19 juin 1975]

[Assented to 19th June, 1975]

Sa Majesté, sur l'avis et du consentement du Sénat et de la Chambre des communes du Canada, décrète:

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et du consentement du Sénat et de la Chambre des communes du Canada, décrète:

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

TITRE ARRÊGÉ

SHORT TITLE

TITRE ABRÉGÉ

SHORT TITLE

1. La présente loi peut être citée sous le titre: *Loi corrective de 1977*.

1. This Act may be cited as the *Miscellaneous Statute Law Amendment Act, 1977*.

1. La présente loi peut être citée sous le titre: *Loi sur l'exportation et l'importation de biens culturels*.

1. This Act may be cited as the *Cultural Property Export and Import Act*.

Short title

Short title

Titre abrégé

S.R. c. C-32

LOI SUR LE DROIT D'AUTEUR

COPYRIGHT ACT

R.S. c. C-30

LOI SUR LE DROIT D'AUTEUR

COPYRIGHT ACT

10. La date du «4 juin 1921» doit, chaque fois qu'elle apparaît dans l'annexe I de la *Loi sur le droit d'auteur*, être remplacée par celle du «1^{er} janvier 1924».

10. Schedule 1 to the *Copyright Act* is amended by striking out the words "4th day of June 1921" wherever they appear therein and substituting therefor the words "1st day of January, 1924".

S.R. c. C-30;
cc. 4, 10
(2^e Supp.)

47. Le paragraphe 17(2) de la *Loi sur le droit d'auteur* est modifié par l'addition du mot «et» à la fin de l'alinéa g) et du paragraphe suivant:

47. Subsection 17(2) of the *Copyright Act* is amended by adding the word "and" at the end of paragraph (g) thereof and by adding thereto the following paragraph:

«h) la reproduction d'un manuscrit, d'un document original, d'archives, d'une épreuve photographique, d'un négatif, d'une œuvre cinématographique ou d'un enregistrement sonore effectuée pour être déposée dans un établissement, selon les directives du secrétaire d'Etat, conformément à l'article 11 de la *Loi sur l'exportation et l'importation de biens culturels*»

“(h) the reproduction of a manuscript, original document, archive, photographic positive or negative, cinematograph film or sound recording for deposit in an institution on the direction of the Secretary of State pursuant to section 11 of the *Cultural Property Export and Import Act*”

CHAPTER 47

CHAPTER 131

CHAPTER 131

An Act to correct certain anomalies, inconsistencies, archaisms, errors and other matters of a non-controversial and uncomplicated nature in the Revised Statutes of Canada, 1970, and other Acts subsequent to 1970

Loi visant à corriger certaines anomalies et incompatibilités, certains archaïsmes et certaines erreurs mineures et évidentes des Statuts révisés du Canada de 1970 et de certaines lois postérieures

[Assented to 19th February, 1981]

[Sanctionnée le 19 février 1981]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, décrète :

SHORT TITLE

TITRE ABRÉGÉ

1. This Act may be cited as the *Miscellaneous Statute Law Amendment Act, 1981*.

1. *Loi corrective de 1981.*

Short title

Titre abrégé

R.S. c. C-30

LOI SUR LE DROIT D'AUTEUR

SR. c. C-30

Contrivance made for persons unable to read print

Organe destiné aux personnes incapables de lire les caractères imprimés

"(11) For the purposes of this section, a record, perforated roll or other contrivance by means of which sounds may be reproduced and by means of which a literary or dramatic work may be mechanically performed made within Canada with the consent or acquiescence of the owner of the copyright in the work and intended for and primarily distributed to persons unable to read print because of a physical handicap is deemed not to be a contrivance made with the consent or acquiescence of the owner of the copyright in the work."

"(11) Pour les fins du présent article, une empreinte, un rouleau perforé ou un autre organe au moyen desquels des sons peuvent être reproduits et une œuvre exécutée ou représentée mécaniquement confectionnés au Canada avec le consentement ou l'assentiment du titulaire du droit d'auteur sur l'œuvre et destinés principalement à l'usage de personnes incapables, en raison de déficiences physiques, de lire les caractères imprimés sont réputés ne pas être un organe confectionné avec le consentement ou l'assentiment du titulaire du droit d'auteur sur l'œuvre."

Restriction made for persons unable to read print

Restriction en paragraphes 17(2)(i) and (j)

3 1761 11465382 7

